

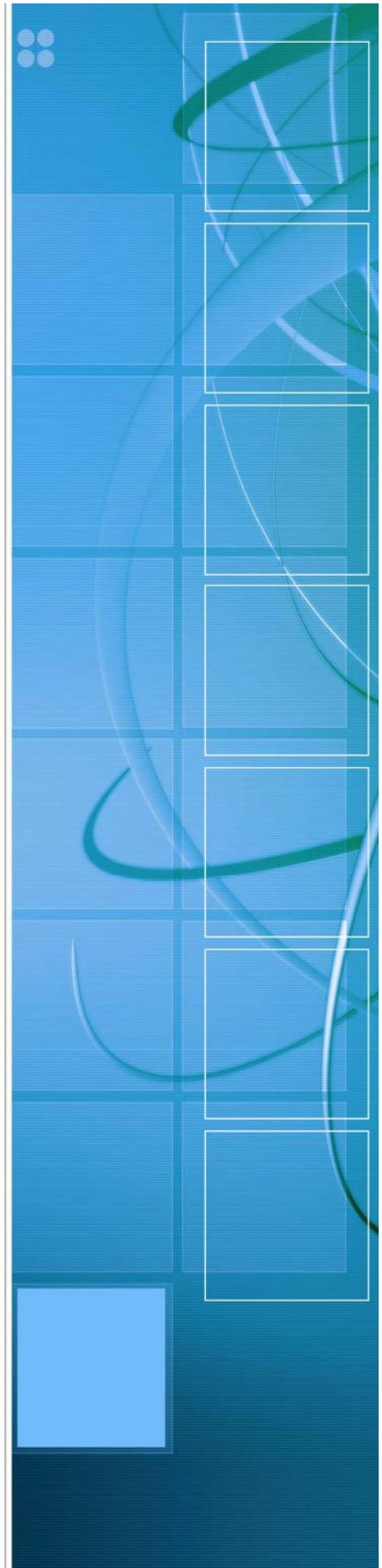


GOVERNOR'S REORGANIZATION PLAN #2

Reorganization of the California Gambling Control Commission and the Justice Department's Bureau of Gambling Control

The current system of gambling regulation duplicates administrative, investigative, and enforcement activities between the Gambling Control Commission and the Bureau of Gambling Control in the Division of Law Enforcement of the Department of Justice. While consolidating these functions in the Bureau of Gambling Control, the Governor's Reorganization Plan 2 ensures that the Gambling Control Commission retains its policy authority. The GRP also maintains the current arrangement of shared oversight over gambling activities between the Commission and the Attorney General. It is in the public's interest for economy and efficiency in government to move some functions for gaming regulation from the independent California Gambling Control Commission to the Bureau of Gambling Control within the Department of Justice.

This document will provide the details necessary to implement the reorganization.





Governor’s Reorganization Plan Number Two

**REORGANIZATION OF THE
CALIFORNIA GAMBLING CONTROL COMMISSION AND
THE DEPARTMENT OF JUSTICE, BUREAU OF GAMBLING CONTROL**

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Governor's FY12/13 Proposed Budget Summary (Jan. 2012)

"There are currently many legal and operational inefficiencies stemming from the bifurcated system of gambling control, which separates the policy functions of the Gambling Control Commission from the licensing, investigation, compliance, and enforcement functions of the Department of Justice. Consolidating support, investigatory, and compliance functions within the Department of Justice will promote a more effective and efficient regulation of legalized gambling."

GRP2 Submitted to Little Hoover Commission (March 2012)

"The current system of gambling regulation duplicates administrative, investigative, and enforcement activities between the Gambling Commission and the Bureau of Gambling Control in the Division of Law Enforcement of the Department of Justice. While consolidating these functions in the Bureau of Gambling Control, this GRP ensures that the Gambling Commission retains its policy authority. This GRP also maintains the current arrangement of shared oversight over gambling activities between the Commission and the Attorney General. "

May Revise (May 2012)

"Improving State Government – Governor's Reorganization Plan – On May 3, 2012, the Governor submitted to the Legislature an expansive plan to streamline the state's organizational structure and make it more cohesive, accessible, and efficient. The plan cuts the number of state agencies from 12 to 10 and consolidates and aligns related programs and departments.... Upon implementation, the Governor's Plan will improve the management and coordination of government activities, which will facilitate further efficiencies and reduce costs."

Little Hoover Commission Report (May 2012)

"Other areas of the plan involve relocations and combinations that are more complex. The changes raised concerns from witnesses and stakeholders that fell into three main categories:...
... **On mergers of departments and potential loss of specific expertise:** The Commission notes concerns about losing specialized legal expertise in subject areas where departments with different functions are merged, particularly in the creation of the Department of Business Oversight through the combination of the Department of Financial Institutions and the Department of Corporations; the merger of the Department of Real Estate into the Department of Consumer Affairs and in the shift of some administrative auditing functions from the California Gambling Control Commission to the Justice Department's Bureau of Gambling Control. Such expertise represents significant human capital for the state and people of California."

"California Gambling Control Commission- The reorganization plan calls for moving some functions for gaming regulation from the independent California Gambling Control Commission to the Bureau of Gambling Control within the Department of Justice. These two organizations monitor the operation and compliance of cardrooms and third-party providers, as well as some responsibilities related to class III casinos on tribal land. The regulatory activities and the operation of these establishments are governed by the Gambling Control Act of 1997, Governor's executive orders and a series of compacts between the state and Indian tribes. The commission's five members are appointed by the Governor. The bureau reports to the Attorney General.

Currently, the commission receives applications and fees for licenses for cardrooms, processes the applications and makes determinations on whether licenses are granted, and makes recommendations on suitability of tribal gaming key employees, gaming resource suppliers and financial sources. In its auditing role, the commission conducts financial audits related to gambling revenues that flow into the General Fund or the Indian Gaming Special Distribution Fund, and it oversees the Revenue Sharing Trust Fund that is distributed among tribes.

The bureau's responsibilities include criminal background investigations of individuals and businesses that apply for state gambling licenses, and making recommendations to the Gambling Control Commission on their suitability; conducting compliance inspections of gambling operations and establishments; reviewing and approving gaming rules in cardrooms prior to their use; and registering non-profit organizations that plan to host charity fundraising events.

One witness told the Commission the "parallel system" that exists today "has created a diffusion of expertise, redundancy in functions, confusion among tribes and cardroom operators, and counterproductive competition between the CGCC and the Bureau." Another observer, however, told the Commission that, as the system currently is working well, change is not warranted.

Under the reorganization plan, licensing and auditing functions currently performed by the California Gambling Control Commission would be shifted to the Bureau of Gambling Control in the Justice Department. The Commission would keep its policy-making role, establish regulations, approve licenses and monitor revenues to funds for which it is responsible.

Stakeholders contacted by the Commission described the commission and the bureau as having different cultures and taking different approaches to their regulatory tasks. One witness, attorney Tracey Buck-Walsh, observed that the bureau's expertise is derived from its roles in investigation, auditing and prosecution, while the commission's seems to stem from its work as an approval and control agency, and that "the effective regulation of gambling requires both."

The Bureau of Gambling Control's acting chief, Martin Horan, Jr. told the Commission that combining compliance, licensing and enforcement into one agency would streamline regulatory operations and reduce the number of visits to various gaming operations by state entities. As the bureau has offices throughout California, it is better positioned to perform field compliance and auditing work.

In testimony to the Commission, Stephanie Shimazu, chair of the Gambling Control Commission, suggested steps the state should take to implement the proposed reorganization successfully:

- Regulations, executive orders and statutes will need to be rewritten to establish the new delineation of responsibilities and activities between the two agencies.
- Tribal gaming organizations would need to be notified of the changes, as required by the compacts, so that they are aware of which agencies are the official contacts for these roles.
- The Department of Finance and the Department of Personnel Administration would need to be engaged to analyze which staff would be transferred to the bureau and how many staff would be required to serve the Commission's constitutional and statutory roles.
- The commission and bureau should create a working group to determine the assignment of those duties not clearly delineated in the Governor's proposal.

Witness testimony and comments from tribal gaming officials suggest that the bureau would face a steep learning curve as it incorporates new administrative tasks involved in regulating sovereign tribes with its existing enforcement and investigation roles. This transition would be helped by the transfer of gaming commission staff as long as their expertise and experience were tapped in developing a new, hybrid regulatory approach.

Interviews with tribal gaming officials, representatives of cardrooms and others with experience in the controlled gaming business urge the administration to move slowly and carefully as it proceeds with this shift in duties. To protect the gaming commission's independence and effectiveness, it will be important to preserve an appropriate level of staffing to support the commission's remaining policy and regulatory roles.

This reorganization of gaming regulation functions should open the door to exploration of the merits of a more comprehensive reorganization of gaming governance, including examination of the potential for combining under a single regulatory agency California horse racing, the state lottery as well as cardroom and casino-style gaming.”

Little Hoover Commission Written Testimony (April 2012) – See Attachment.

EXISTING ORGANIZATIONS

The California Gambling Control Commission

The focus of the California Gambling Control Commission (Commission) is to act as the regulatory body over:

1. Gambling establishments (cardrooms), and over all persons or things having to do with the operations of gambling establishments,
2. Proposition Players, and
3. Tribal casinos, pursuant to the Commission's authority under the Tribal-State Gaming Compacts.

The Commission is responsible for setting policy, establishing regulations, conducting financial audits, and compliance reviews at tribal casinos, making determinations of suitability for gaming employees and other individuals and entities, issuing licenses, acting as the administrator of gaming revenues deposited into the Indian Gaming Special Distribution Fund (SDF) and the trustee over the revenues deposited into the Indian Gaming Revenue Sharing Trust Fund (RSTF), acting as the administrator of revenues deposited into the Gambling Control Fund (GCF), and administering the provisions of the Gambling Control Act (Act) and the Tribal-State Gaming Compacts (Compact). The Commission also administers the Charity Bingo Mitigation Fund and the California Bingo Fund. The Commission currently has 73 authorized regular positions and one temporary help position. It is located at 2339 Gateway Oaks Blvd. in Sacramento.

Cardrooms and Proposition Players

The Commission, pursuant to its authority under the Act and Executive Order D-29-01 has jurisdiction over operation, concentration, and supervision of gambling establishments, and over all persons or things (i.e. card tables, gaming equipment) related to the operations of gambling establishments in the State of California. There are approximately 89 cardrooms currently licensed to operate.

The Commission's primary responsibilities related to cardrooms include:

- Making determinations of suitability for the issuance of gambling licenses to owners, related parties, and key employees;
- Issuing work permits to cardroom employees;
- Taking reasonable actions to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gaming activities;
- Assessing and acting upon certain restricted transactions including ownership changes and lending arrangements;
- Taking reasonable actions to ensure that gambling activities take place only in suitable locations;
- Granting temporary licenses, permits or approvals on appropriate terms and conditions;
- Developing and implementing regulations pursuant to the Act;
- Receiving financial reports; and,
- Adjudicating recommendations concerning license denials or revocations, or disciplinary actions.

A relatively new component of the California cardroom industry that has become part of the Commission's regulatory responsibility is the Third-Party Provider of Proposition Player Services (Proposition Player) industry. Proposition Player company services are used to enhance the attractiveness of card games available in the State. The Commission has established a program for the initial registration and subsequent licensure of persons and entities involved through the regulation. The Commission has the responsibility and authority to issue registrations and licenses under the licensing powers of the Act.

Currently, there are 13 Proposition Player companies, and 3 Gambling Businesses (those Proposition Player companies that do not have a contract with a cardroom) licensed by the Commission. And, 17 Proposition Player companies registered (currently there are no Gambling Businesses that are registered) by the Commission pending background investigation for conversion to licensure. In 2011, these companies filed over 2,000 applications, which have been processed by the Commission.

Tribal Gaming

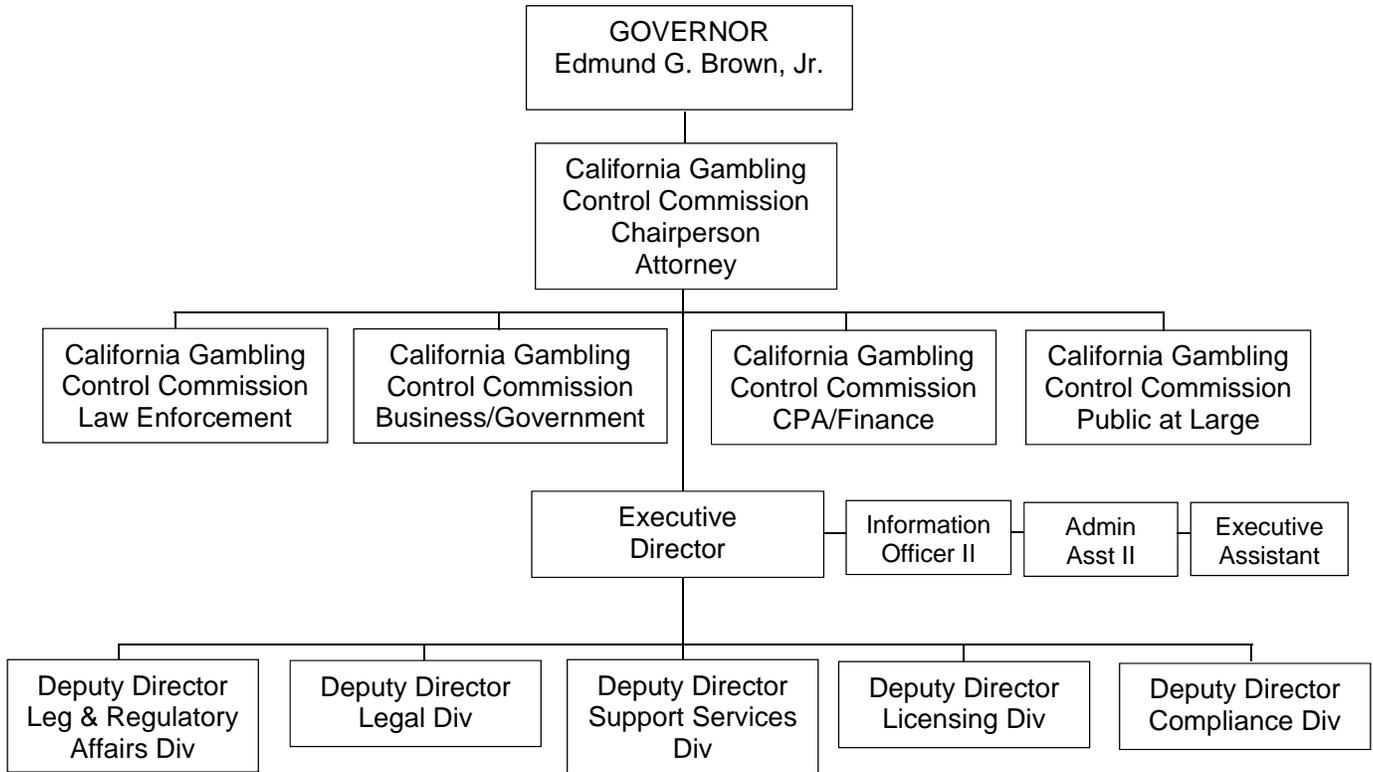
The Commission, pursuant to the Compacts, the Act, the Governor's Executive Order D-31-01 and Governor's Executive Order D-66-03, has various fiduciary, regulatory and administrative responsibilities related to Tribal gaming and the distribution of revenues to Non-Compact Indian Tribes. There are currently 60 Tribal casinos operated by 59 Tribes.

The Commission's primary responsibilities related to Tribal gaming and Non-Compact Tribes include, but are not limited to:

- Making suitability recommendations for Tribal key employees, gaming resource suppliers (vendors), and financial sources. Under some Compacts, the Commission also has the authority to make suitability recommendations for Tribal Gaming Agency members;
- Performing several types of audits, including financial audits to verify the accuracy of Tribal contributions to the GF, SDF, RSTF and to ensure compliance with the Compacts.. Other audits performed include:
 - RSTF eligibility;
 - Commercial operation audits to validate that licensed gaming devices are in operation within 12 months of issuance;
 - Gaming Device counts;
 - Inspects the minimum internal control standards adopted by the Tribe and regulated by the Tribal Gaming Agency;
 - GF payments for additional gaming devices under the some Compacts;
 - Serving as the administrator of the SDF, including the verification of net win.
- Serving as the trustee for the RSTF, including collecting and accounting for license fees from Tribes, preparing reports, and distributing funds to Non-Compact Tribes based on the approved distribution methodology;
- Conducting field-testing of gaming devices to confirm that they operate and play in accordance with the manufacturer's specifications and technical standards. The Commission utilizes a field inspection program to test gaming devices and a technical services program to develop the technical expertise to determine whether gaming devices are functioning appropriately and to ensure the public that gaming is conducted honestly and fairly;
- Ensuring that the allocation of gaming devices among the Compact Tribes does not exceed the allowable number of machines as provided in the Compacts and that the license draws comply with the Compacts;
- Registering gaming manufacturers and distributors;
- Reviewing financial source registration applications and bond indentures to determine if the financial source must be found suitable under the Compact or qualifies for registration with the Commission pursuant to Tribal Regulations CGCC1 and CGCC2; and,
- Developing regulations related to the Compacts with the Tribal-State Gaming Association.

California Gambling Control Commission

Current Organizational Chart



The Department of Justice – Bureau of Gambling Control

The Bureau of Gambling Control (Bureau) within the Department of Justice (DOJ), is the State law enforcement authority with special jurisdiction over gambling activities within the State of California, and is the entity that conducts background investigations for the Commission on gambling license and work permit applications received by the Commission. The Bureau's budget for FY 12/13 includes 162.7 authorized positions.

To ensure the integrity of gambling in California is to ensure that gambling is conducted honestly, competitively and free from criminal and corruptive elements. The Bureau carries out this mission by working cooperatively with the Commission to develop and implement a means of regulating the gambling industry in California. The primary functions of this regulation include the following:

- Conduct comprehensive investigations into the qualifications of individuals and business entities who apply to the Commission for state gambling licenses or findings of suitability,
- Conduct ongoing compliance inspections of gambling operations and establishments throughout the state,
- Review and approve the rules of games and gaming activities in all California cardrooms prior to them being offered for play.
- Register non-profit organizations and suppliers of gambling equipment and/or services to conduct charity fundraising events using controlled games.

The Bureau is also committed to reducing problems that result from pathological gambling. To this end, the Bureau is actively working with partners in the gambling and problem gambling research and treatment industries to administer the statewide Self-Exclusion Program. This proactive program allows individuals to confidentially add their name to a roster of patrons to be excluded from gambling establishments within California.

Prior to 1998, California's gambling industry was essentially unregulated. In 1984, the Legislature enacted the "Gaming Registration Act," which required the Attorney General's office to provide uniform, minimum regulation of California card rooms. However, the scope of the Attorney General's authority was extremely limited and funding was inadequate. Recognizing the need for broader oversight of California's gambling industry, the Legislature enacted the "Gambling Control Act" (Chapter 867, statutes of 1997).

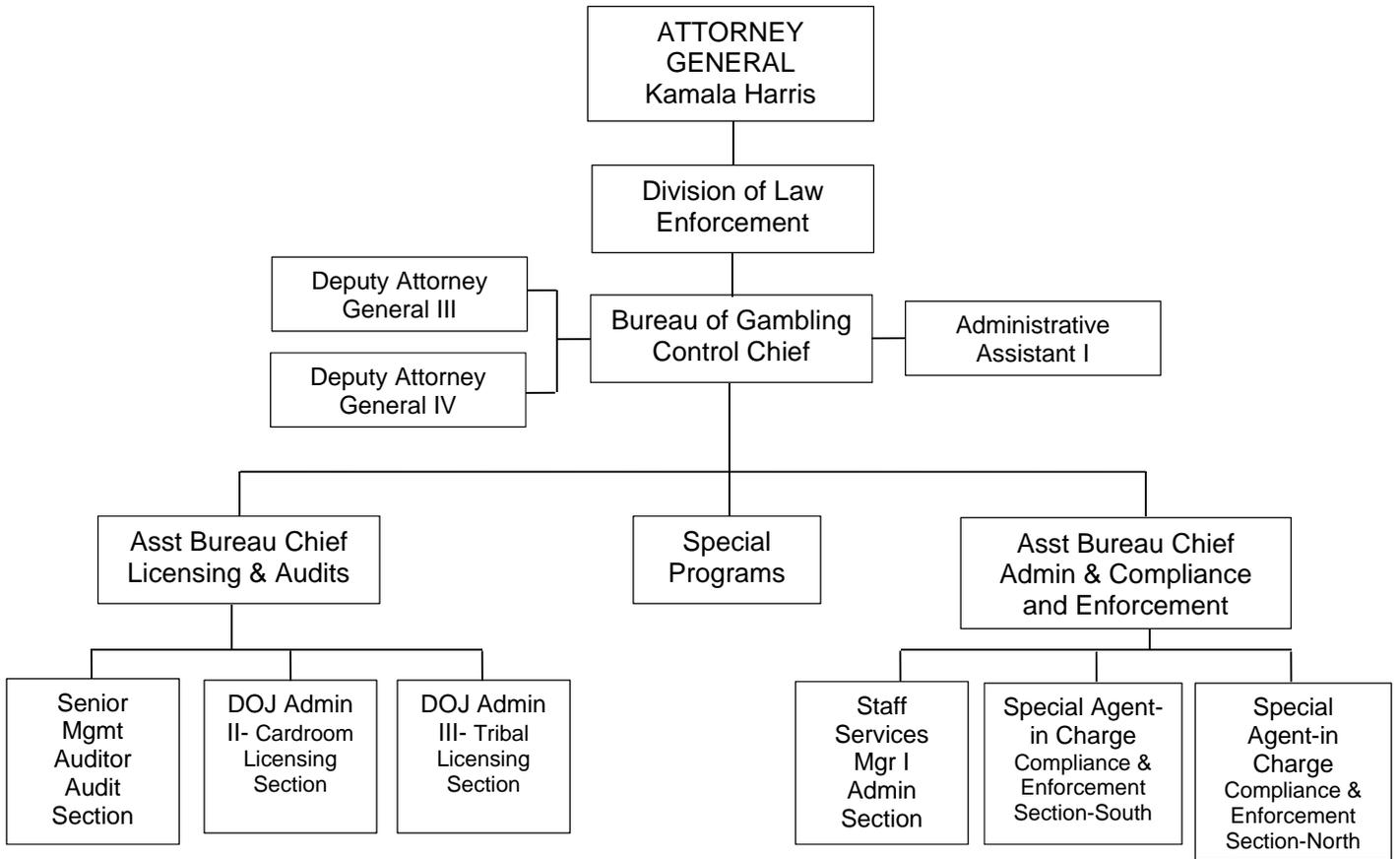
In March 2000, the voters of California passed Proposition 1A which amended the California Constitution to permit Class III (casino-style) gaming on Indian land, provided that such activities are authorized by a tribal ordinance and conducted in conformity with a gaming compact entered into between the Tribe and the State. The Tribe and the State share a joint interest in ensuring that tribal gaming activities are free from criminal and other undesirable elements. While the Tribe maintains the primary responsibility for on-site regulation of gaming operations, the State is ultimately responsible for ensuring compliance with all aspects of the compact.

The Act (Business and Professions Code section 19800 et seq.) created a comprehensive scheme for statewide regulation of legal gambling under a bifurcated system of administration involving the Division of Gambling Control within the Attorney General's Office and the five-member Commission appointed by the governor. The commission is authorized to establish minimum regulatory standards for the gambling industry, and ensure that state gambling licenses are not issued to or held by unsuitable or unqualified individuals.

Early in 2007, the Attorney General redefined the Division as a Bureau. The Bureau was positioned within the DOJ's Division of Law Enforcement. Senate Bill 82, which was chaptered August 24, 2007, made changes to statute relating to the Division of Gambling Control, thus allowing the change to "Bureau of Gambling Control".

Justice Department's Bureau of Gambling Control

Current Organizational Chart



Overview of the Reorganization

Effective July 1, 2013, certain functions of the Commission will be merged with the DOJ's Bureau of Gambling Control. Thirty-three (33.0) positions will be transferred from the Commission to the Bureau; thirty-four (34.0) positions will remain at the Commission; two (2.0) filled Commission positions will be considered surplus; and, four (4.0) vacant Commission positions will be abolished and used as cost savings. This will be a total reduction of six (6.0) positions as a result of the reorganization. The Commission will retain the one (1.0) temporary help position, which is currently vacant.

Below is a list of functions which will be transferred to the DOJ, Bureau; and, includes the functions remaining at the Commission effective July 1, 2013, as proposed in the Governor's Reorganization Plan:

| Bureau of Gambling Control | California Gambling Control Commission |
|--|---|
| Licensing | Licensing |
| Intake of applications (all licensees, registrations (3 rd party & M&D), findings of suitability, temporary work permits, interim key, and remote caller bingo) | Send Commission meeting notices to applicants |
| Intake and process all fees (application, background deposit, problem gambling, fingerprint, table fees, annual fees, etc.) | Prepare background reports for Commission meetings |
| Submit to the Commission (for action) a renewal report listing licensee and findings of suitability, applicants | Issue licenses / badges based on Commission action |
| Process all applications for 3 rd Party additional, replacement, and lost badges; and, transfer or reinstatement requests | Send final action letters to applicants after Commission meeting |
| Create badges for interim key, temporary work permit, 3 rd party registration applicants; and, send approval letters for M&D registrations | Receive and consider requests to remove conditions. The Commission has the authority to limit, condition or restrict any license or permit. Once a condition is placed, the Commission must also formally remove the condition. |
| Process all background investigation refunds | |
| Send renewal notification letters (all license, registrations, findings of suitability, work permits) <i>Note: The Commission should receive notification that no application was received specific to owner-licensee state gambling licenses.</i> | |
| Process and approve articles of incorporation requests | |
| Send notification letters for payment of Table Fees and 3 rd Party Annual Fees. <i>Note: The Commission should receive a report, for action, if an owner-licensee does not pay their fees.</i> | |
| Process applications for temporary tables | |
| | |

| | |
|--|--|
| Process applications to increase permanent tables | |
| Process applications for name change (business/individual) | |
| Process applications for relocations | |
| Check child support/outstanding tax obligation prior to hearing; and, as required thereafter | |
| Ensure compliance with conditions | |
| Compliance | Compliance |
| Conduct Financial Reviews (SDF / GF) | Conduct reconciliation closed session meetings (financial reviews) |
| Conduct MICS review (CGCC 8) | Trustee/administrator RSTF / SDF |
| Conduct device counts | Collect quarterly tribal fees |
| Conduct electronic game device review | Provide info to SCO for local mitigation grants from SDF |
| Conduct RSTF eligibility reviews | Provide annual info to DOF to calculate revenues |
| Conduct 12-month rule gaming device commercial operation review | Conduct license draws |
| Support and maintenance of Kobetron software and hardware | Develop RSTF shortfall report for Legislature |
| Support and maintenance of GLI database | Make quarterly distribution for RSTF recipients |
| | |
| Remote Caller Bingo | Remote Caller Bingo |
| Review and approve controls, methodologies, and standards of game play | Intake of controls, methodology, and standards of game play from organizations and forward to Bureau |
| Collect annual audit reports (vendor of equipment and organizations) | Intake and processing of payments from nonprofit organizations to reimburse SDF |
| Collect copies of records from authorized organizations within 30 days after each calendar quarter | Approve equipment use for remote caller bingo in advance of use |
| Conduct audit of books and records of an organization | |
| Approve card-minding devices, and any proposed material changes, in advance of use | |
| Inspect card-minding devices | |
| | |
| Administration | |
| Administrator of the Gambling Control Fund | |
| | |
| Legal | |
| Review purchase agreements | |
| Review loan transactions | |

| | |
|--|--|
| Review transfer of shares/trust agreements | |
| Process CGCC1 and CGCC 2 registrations | |

Details of Changes to the California Gambling Control Commission’s Divisions

Licensing Division

The Licensing Division (Licensing) is responsible for the oversight of licensing, registration and findings of suitability for gambling establishments and associated applicants, key employees, Third Party Provider of Proposition Player Services companies and associated applications, and resource suppliers for Tribal casinos. Licensing is responsible for the agenda coordination for Commission meetings including preparing agendas, preparing and distributing agenda binders, recording action taken by the Commission, and preparing meeting minutes; reviewing analyses of proposed legislation and regulations impacting Licensing; and collection of annual table and third-party fees.

License types include owners/shareholders/entities, key employees, work permits, additional tables requests, Tribal findings of suitability, gaming vendor resource suppliers, financial source providers, and manufacturers and distributors.

The Bureau will assume responsibility for the following job functions previously maintained by the Commission:

- Receive and process all applications for licenses, findings of suitability and registrations, including initial and renewal applications.
- Receive and process all requests and fee-related actions that affect a license/registration, including name change, address change, employment status changes, relocations, and additional permanent/temporary tables, etc.
- Receive and maintain all application fees, background deposits, annual cardroom fees, problem gambling fees, and third party proposition player service annual fees.
- Renewal notification letters associated with expiring licenses/registrations.
- Maintain process for required submission of Annual table fees by gambling establishments including submission of financial statements.
- Receive and maintain fiduciary responsibility for the Gambling Addiction Program Fund by receiving required fees from the gambling establishments on behalf of the Office of Problem Gambling.
- Maintain and review of license applicants for child support delinquencies and tax lien delinquencies from various state control agency databases.
- Approve Articles of Incorporations for gambling establishments whose owner entity is a corporation.
- Administrator of the Gambling Control Fund

The Commission will continue to perform the following functions:

- Receive background investigation reports from the Bureau for the purpose of licensing/finding of suitability determinations by the Commissioners.
- Coordinate the scheduling of licensing, compliance, regulations, and other issues for Commissioner’s consideration.
- Issue license certificates or badges consistent with Commission actions.
- Provide support to the Commissioners to enable them to effectively render licensing decisions that are consistent with the laws and regulations governing gambling activities.
- Maintain regularly scheduled public meetings for licensing issues, regulation hearings, and evidentiary hearings in accordance with the Gambling Control Act and Bagley-Keene Open Meetings Act.

The Licensing Division is currently staffed with fourteen (14.0) positions. Six (6.0) analyst positions will be transferred to the Bureau. These positions were identified based on the

workload analysis of the functions being transferred. The Commission will retain eight (8.0) positions from Licensing which is further detailed in the section titled Newly Reorganized California Gambling Control Commission under the Programs Operation Division header. No positions are identified as surplus or will be abolished.

Compliance Division

The Compliance Division (Compliance) has responsibilities associated with the Compacts, and Executive Orders. Compliance monitors Tribal compliance with the compacts' obligations for implementing gaming operations. The staff verifies the accuracy of Tribal contributions to the GF, SDF, and RSTF. Additional functions include inspection of minimum internal control standards, RSTF eligibility for distributions, electronic gaming device inspections, gaming device license draws and verification that new licenses are placed into operation.

The Tribal Audits Team (Team) performs casino audits once every three years to provide assurance that required contributions are made in accordance with the terms of the compacts. The Team utilizes a risk-based audit approach with evaluates risk and prioritizes audits based on six priority categories.

The Technical Inspection Program (TIP) is responsible for field testing of electronic gaming devices (devices) up to four times each year. During the inspection, only 25% of the devices in operation may be taken out of play on the gaming floor for inspection. Inspections compare the device software against the independent testing laboratory software certifications to determine if the software is approved for play. Information is also gathered to verify that the devices are properly communicating with the on-line slot monitoring and accounting system.

The Support Team within Compliance maintains Tribal information in the Licensing Information System including changes to Tribal, Tribal Gaming Association (TGA) and casino names and addresses. Additional responsibilities include maintenance of Tribal files which includes audit and inspection information. Compliance also receives approximately 150 reports per year from the TGAs and manufacturers and distributors regarding the transportation of devices to and from Tribal casinos in California.

The Revenue Audits Team tracks the revenue contributions from the Tribes into the SDF, RSTF and GF.

All of the functions identified above will be transferred to the Bureau with the exception of receiving revenue contributions from the Tribes into the SDF, RSTF, and GF; and, administering the SDF and RSTF.

The Compliance Division is currently staffed with twenty-seven (27.0) positions. Twenty-five (25.0) positions will be transferred to the Bureau. The Commission will retain one (1.0) position from Compliance which is further detailed in the section titled Newly Reorganized California Gambling Control Commission under the Administration Division header. One vacant Deputy Director (CEA 2) position has been identified as a duplication of management and will be abolished and used as cost savings.

Remote Caller Bingo

GRP No. 2 transfers some Remote Caller Bingo Program (RCB) duties in Penal Code 326.3 and 326.5 from the Commission to the Bureau. There is no staff associated with the functions moving to the Bureau.

SB 1369 (Cedillo, Chapter 748, Statutes of 2008) established the Remote Caller Bingo Act to authorize "remote caller bingo" as a game that would allow specific nonprofit and charitable organizations to use audio and video technology to remotely link designated in-state facilities to cosponsor live bingo games, if authorized pursuant to a local bingo ordinance and approved by the Commission. In general, the bill required the Commission to regulate remote caller bingo, approve equipment used for remote caller bingo, and administer mitigation payments to eligible nonprofit

organizations. After more than three years of considerable effort to develop and implement the Program, it was not fiscally viable and the fee revenues associated with the program did not cover the Commission's costs. The Commission's current funding authority for the Program (via loans from the Gambling Control Fund) and limited-term positions expired on June 30, 2011.

As a result of the lack of funding and positions to regulate remote caller bingo games, the Commission discontinued Program regulatory activities effective July 1, 2011 because the Commission's only sources of funding are special funds that are limited to specific purposes. Accordingly, the Commission was no longer legally authorized to perform work related to the Program. To avoid disruption of remote caller bingo games, the Commission extended all remote caller bingo licenses and work permits through May 31, 2012 for those licenses and work permits in effect on June 30, 2011.

On May 10, 2012, Bingo Innovations of California, Inc. (Bingo Innovations) filed suit in Sacramento County Superior Court against the Commission. Bingo Innovations sought a stay to prevent the expiration of licenses and work permits which were set to expire on May 31, 2012. In addition, Bingo Innovations requested an order compelling the Commission to resume processing applications, notwithstanding the lack of an appropriation in the Budget for this Program. The Commission worked with plaintiff's counsel to stipulate to an extension of the licenses and work permits related to the Program. The stipulation extends all licenses and work permits in effect on the date of the order (signed on May 25, 2012) until the earlier of: (1) the disposition of the lawsuit; (2) and appropriation of funds; or, (3) a change in law which relieves the Commission of its obligation to review and approve applications related to the Program. The hearing on the merits of the lawsuit is currently scheduled for November 2, 2012.

To be consistent with other changes made in GRP 2, remote caller bingo related to payment processing, equipment approval, and game play standards should not remain with the Commission. These activities are consistent with other types of activities that are being transferred to the Bureau under GRP 2. Cleanup legislation would be necessary to make these conforming changes.

Support Services Division

The Support Services Division (Support Services) handles the administrative, information technology and telecommunication related functions for the Commission which includes budget, cashing, procurement, contracts, interagency agreements, travel, training, human resources, business services, facilities, reception, information technology and telecommunications.

The Commission is currently supported in house for all budget functions including the preparation, analysis, review and reconciliation of budget data for the Governor's Budget and the May Revise; monitoring and tracking expenditures; preparation of budget change proposals, allocation of fiscal resources and responding to inquiries regarding budget issues. The Department of General Services (DGS), Contracted Fiscal Services unit provides accounting functions; however, Support Services currently processes invoices and report of collections and reviews travel claims and other related functions. Support Services also handles cashing functions for deposits into the GF, SDF, RSTF, GCF, Charity Bingo Mitigation Fund, and the California Bingo Fund; contracts, procurement and human resource functions.

The Commission contacted the California Technology Agency, Office of Technology Services (OTEC) to obtain cost estimates regarding information technology and telecommunication functions. The OTEC costs to handle all aspects of the Commission's information technology and telecommunication functions would exceed \$2.5 million per year. The salary and wages and benefits cost for the 3.5 positions (IT classifications) slated to remain at the Commission to handle these functions would be approximately \$370,000 per year.

DGS informed the Commission that it does not have the expertise within the Commission's program areas to provide administrative functions related to budgets, procurement and accounting outside of the current interagency agreement. DGS can continue to provide the Commission with basic governmental accounting, but suggested the Commission retain

administrative staff that is knowledgeable of the Commission's programs. Human resource functions cost out at approximately \$1,600 per position. If the Commission retains 34 positions, the cost for human resource functions would be approximately \$54,400 which exceeds the \$32,000 yearly salary and wages and benefits cost for the .5 position at the Associate Personnel Analyst level.

The Support Services Division is currently staffed with twelve (12.0) positions. One (1.0) position will be transferred to the Bureau to handle the intake and processing of all fees which is listed under the Licensing header on the Function Listing. The Commission will retain seven (7.0) positions from Support Services which is further detailed in the section titled Newly Reorganized California Gambling Control Commission under the Administration Division header. Two (2.0) positions will be abolished and two (2.0) positions will be identified as surplus resulting in a total of four (4.0) positions to be used as cost savings. The Commission will work with CalHR on a layoff plan if the two surplus positions remain filled.

Legal Division

The Legal Division (Legal) is responsible for providing legal support to the Commission. This generally includes advice to the Chairperson, Commissioners, Executive Director and executive staff on substantive and procedural issues related to the Commission's exercise of authority under the Act, Compacts, Executive Orders and other pertinent provisions of law.

The Bureau will assume responsibility for reviewing purchase agreements, loan transactions, transfer of shares which includes review of trust documents, and processing of CGCC1 and CGCC2 registrations.

The Commission will continue to perform the following functions:

- Advice to the Licensing Division on matters being presented to the Commission. Some of these matters require formal legal memoranda to the Executive Director and Commissioners. This workload includes collaboration with the Licensing Division on responses to inquiries from the regulated industry regarding transactions or other matters which require Commission approval.
- Advice to the Legislative Affairs and Regulations Division on legal issues arising from the development of regulations or the review and analysis of proposed legislation.
- Advice to the Executive Director and Commissioners on issues arising from the Commission's reconciliation authority pursuant to the Compacts.
- Advice to the Executive Director on procedural issues related to the conduct of Commission meetings and hearings to ensure compliance with the Bagley-Keene Open Meetings Act, Act, Administrative Procedures Act, and implementing regulations.
- Administration of the Public Records Act program.
- Administration of the State Involuntary Exclusion Program.
- Primary coordination of GCA Hearings and drafting of final Commission decisions, if required.
- Primary support to litigation counsel on litigation related issues which includes the developing of litigation strategy, review and approval of pleadings, and compliance with discovery requests.
- Review of contracts between gambling enterprises and third-party providers of proposition player services.
- Support of Executive Staff responses to correspondence, complaints or comments received by the Commission.
- Advice, as needed, to the Support Services Division on issues related to human resources, labor relations, information technology security/privacy, and procurement.
- Review and analysis of proposed stipulated settlements and closed session advice to Commissioners and the Executive Director.
- Miscellaneous legal support on issues related to media inquiries, required reports or reviews, etc.

The Legal Division is currently staffed with seven (7.0) positions. One (1.0) position will be transferred to the Bureau. The Commission will retain six (6.0) positions from Legal which is further detailed in the section titled Newly Reorganized California Gambling Control Commission under the Legal Division header.. No positions will be identified as surplus or will be abolished.

Executive Division

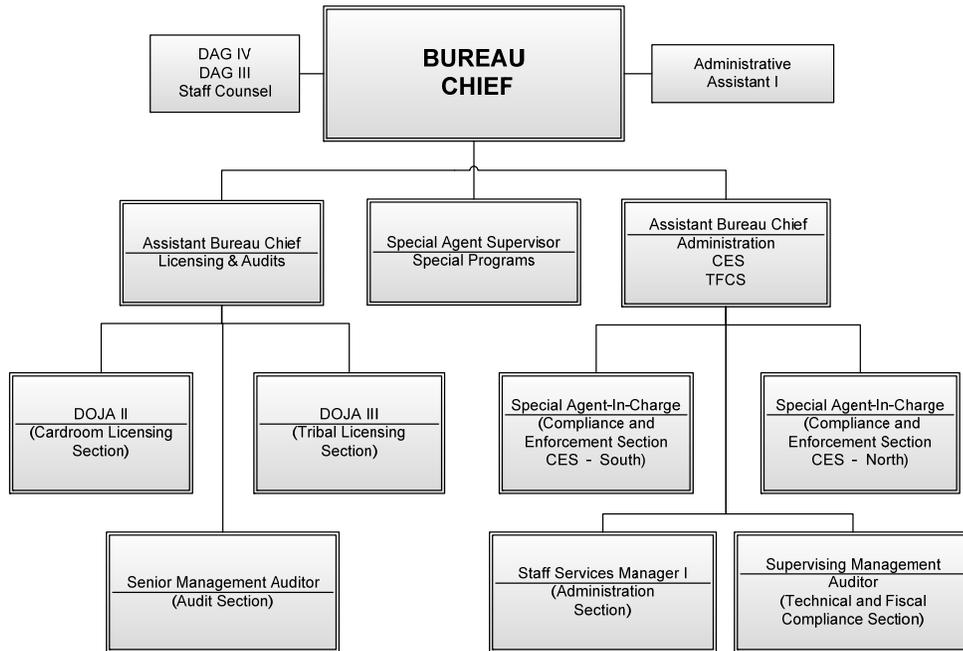
The Executive Division (Executive) is currently staffed with nine (9.0) positions. Five (5.0) positions are Governor appointed Commissioners, one (1.0) position is the Executive Director, one (1.0) position is the public information officer, one (1.0) position is an administrative assistant II, and one (1.0) position is an executive assistant.

There are no functions from Executive that are being transferred to the Bureau. The Commission will retain eight (8.0) positions from Executive which is further detailed in the section titled Newly Reorganized California Gambling Control Commission under the Executive Division header. One (1.0) vacant position will be abolished and used as cost savings. No positions are identified as surplus.

Legislation and Regulatory Affairs Division

The Legislation and Regulatory Affairs Division (Leg/Reg) is responsible for the development, implementation and management of the Commission's legislative and regulations program. There are no functions identified to be transferred to the Bureau. The Commission will retain four (4.0) positions from Leg/Reg which is further detailed in the section titled Newly Reorganized California Gambling Control Commission under the Legislation and Regulatory Affairs Division. No positions are identified as surplus or will be abolished.

Reorganized Bureau of Gambling Control Organization Chart



The Newly Reorganized California Gambling Control Commission

Effective July 1, 2013, the newly reorganized Commission will have thirty-four (34.0) authorized positions and one (1) temporary help position. The Commission will be reorganized into five divisions: Executive Division, Programs Operation Division, Administration Division, Legal Division, and the Legislation and Regulatory Affairs Division.

Executive Division

The Executive Division will continue with one Chairperson and four Commissioners that are appointed by the Governor, subject to confirmation by the Senate. One member is required to be a certified public accountant or a person with experience in banking or finance; one member is required to be an attorney and a member of the California State Bar with regulatory law experience; one member is required to have a background in law enforcement and criminal investigation; one member is required to have a background in business with at least five years of business experience or five years of governmental experience; and, one member is required to be from the public at large (Business and Professions Code sections 19812 and 19813).

The Commission will maintain an Executive Director who is appointed by the Commission. The Executive Director is the Commission's executive officer and carries out and executes the duties as specified by law and by the Commission. The Commission may appoint clerical personnel as necessary to carry out its duties (Business and Professions Code section 19816).

The Executive Division will be staffed with seven (7.0) positions to include one Chairperson, four Commissioners, one Executive Director and one (1.0) position for administrative support.

Programs Operation Division

The Programs Operation Division will perform licensing functions to support Commission action such as preparing items for Commissioner consideration, issuing licenses/badges after action has been taken, sending final action letters, and performing the duties to ensure the meetings/hearings are held in accordance with the Bagley-Keene Open Meetings Act. Other responsibilities will include media liaison, information security, and privacy protection.

The Commission currently has a public information officer which reports directly to the Executive Director. This position will be moved under the Deputy Director of the Programs Operation Division. The public information officer acts as the public affairs liaison, outreach coordinator, and is the primary media liaison and spokesperson. In addition, this position serves as the Commission's information security officer and privacy officer. This includes security oversight and risk management, disaster recovery and threat response plan, security audit and evaluation, information security inventory, privacy protection, annual privacy training and awareness, security incident investigations and reports, security policy and industry trend analyses and the biennial Financial Integrity and State Managers Accountability (FISMA) report.

The Program Operations Division will be staffed with nine (9.0) positions to include one Deputy Director, one program manager, one clerical support, one agenda coordinator, four licensing analysts, and one public information officer.

Administration Division

The Administration Division will handle administrative, information technology, and telecommunication functions for the Commission. Administrative functions would include the budget; fiduciary responsibility for the SDF, RSTF, Charity Bingo Mitigation Fund and the California Bingo Fund; quarterly RSTF distributions to eligible Tribes; reconciliation of Tribal revenues; some accounting functions; budget change proposals; contracts, interagency agreements; procurement; travel claims; mandated reports; training; emergency program; record retention; payroll; human resources; labor relations; equal employment opportunity; business services; and the strategic plan.

The information technology and telecommunication functions include systems infrastructure; application development; security management; enterprise architecture; audio recording of

Commission meetings; mandated reports; equipment; information technology disaster recovery; chief information officer duties; and eDiscovery.

The Administration Division will be staffed with nine (9.0) positions to include one Deputy Director, three IT staff, three analysts, one auditor, and one clerical support.

Legal Division

The Legal Division will continue to provide advice on matters before the Commission, administer the Public Records Act program, administer the Statewide Involuntary Exclusion Program, coordinate administrative hearings, provide support on litigation matters, and provide advice to program managers on licensing, regulations, legislation, and media concerns.

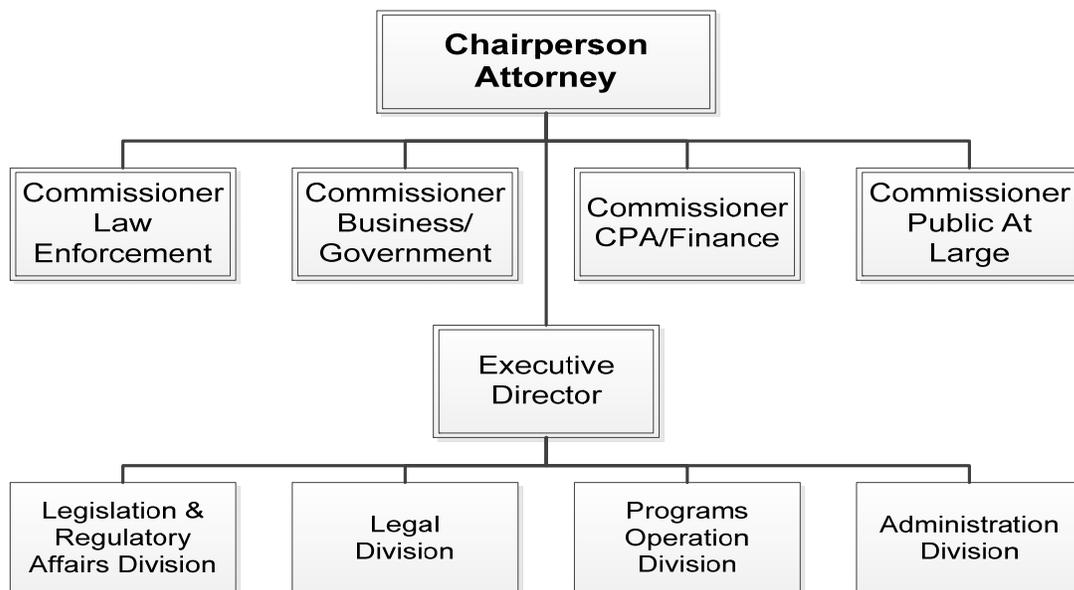
The Legal Division will be staffed with five (5.0) positions to include one Chief Counsel, three attorneys, and one analyst.

Legislation and Regulatory Affairs Division

The Legislation and Regulatory Affairs Division will continue to be responsible for the development, implementation, and management of the Commission’s legislation and regulations program. The Division advocates and negotiates on legislative matters, including sponsored legislation; prepares bill analyses, enrolled bill reports, and mandated reports; tracks proposed legislation; advises the Commission on policy, program, and budget issues; and, responds to inquiries from the Legislature and stakeholder groups. The Division also develops, adopts, amends, updates, and repeals Commission regulations in compliance with the Administrative Procedure Act; conducts industry meetings and regulation hearings from Commission action; and prepares responses to all public rulemaking comments.

The Legislation and Regulatory Affairs Division will continue with its current staffing of four (4.0) positions which includes one Deputy Director, one manager, and two analysts. Note: the current manager was responsible for overseeing the Remote Caller Bingo program which was staffed by limited term positions. Since that time, the positions have expired and no funding has been provided to continue to operation of the program. It is the Commission’s position that this manager position will be reclassified to an analyst position once the position becomes vacant.

Reorganized California Gambling Control Commission Organization Chart



Other Considerations

Gambling Control Act

The transfer of functions does not alter or amend the fundamental powers, responsibilities and jurisdiction of the Commission and the Bureau as specified in the Act. The Commission exercises the adjudicatory and regulatory powers of the State of California in the field of gaming law. The Commission will retain the power to, among other things, deny any application for a license, permit, or approval; limit, condition or restrict any license, permit or approval; approve or disapprove transactions, events, or processes; take actions deemed to be reasonable to ensure that no ineligible, unqualified, disqualified or unsuitable persons are associated with controlled gambling activities; grant temporary licenses, permits or approvals on appropriate terms and conditions; and generally exercise jurisdiction over all person or things having to do with the operations of gambling establishments in this state.

The Bureau will retain the responsibility, among other things, to investigate the qualifications of applicants before any license, permit, or other approval is issued; to monitor the conduct of all licensees and other person having a material involvement, directly or indirectly, with a gambling operation; to investigate suspected violations of the laws of this state relating to gambling; to conduct financial analysis and audits of applicants and gambling operations; to investigate complaints that are lodged against licensees, or other persons associated with a gambling operation; to initiate disciplinary actions as provided in the Act and, in connection with any disciplinary action, seek restriction, limitation, suspension or revocation of any license or approval, or the imposition of a fine; and, to approve the play of any controlled game, including placing restrictions on how a controlled game may be played.

In the context of Tribal-State Compacts, the Commission and the Bureau will continue to be two halves of the State Gaming Agency. However, due to the shift in financial auditors to the Bureau, the Bureau will now be in charge of information gathering and investigating Compact compliance in all areas, including financial audits, internal controls, gaming device counts, placing gaming devices in commercial operation after the awarding of licenses, etc. The Commission however retains decision making responsibility in connection to its role as the Trustee of the RSTF, the administrator of the license draw under Executive Order D-31-01, the receipt of Tribal contributions and contribution reports from Tribes to the SDF, GF, and the RSTF and the review of corresponding regular audits as well as tribally requested reconciliation meetings, maintenance of the RSTF, SDF, and other funds, the tribal regulatory process, and approving findings of suitability.

Staffing Issues and Employee Considerations

All employees, whether transferring to the Bureau or remaining at the Commission, will retain their existing civil service status. Those employees in positions identified as surplus shall secure the ability to transfer or be transferred to vacant jobs for which they are qualified that remain at the Commission in order to accomplish staff reductions or achieve efficiencies required by this reorganization. Employees moving to the Bureau will be required to pass a DOJ background check investigation. Appropriate union notification will be made thirty (30) days in advance of the initiation of these investigations.

To the extent feasible given the existing conditions of the state budget, there will be no layoffs, and positions abolished or reduced under this transfer of functions shall be done through attrition, provided they are accomplished prior to July 1, 2013. This may require employees to accept voluntary transfers to other classifications in lieu of layoff, voluntary or involuntary transfers to other jobs in existing classifications, placement on the State Restrictions of Appointments List, or other administrative actions. Personnel in "surplus" positions as a result of this transfer of functions will be given first call on vacancies.

Incumbents in CEA positions eliminated as part of this transfer of functions may be given a 20-day notice of termination and retain the right of return to their former civil service status.

This does not preclude other reductions directed by the administration or authorized by the Legislature to achieve budget reductions necessary to balance the state budget.

Estimated Initial Position Savings from the Transfer of Functions

The proposed transfer of functions is estimated to result in a reduction of 6.0 positions. Initial savings will be derived from eliminating:

- Duplicate management staff.
- Clerical support functions within the Commission.
- Human resource support functions within the Commission.
- Accounting support functions within the Commission.

The 6.0 position reduction will save approximately \$522,000 (salaries and wages and benefits). Since many of the savings cannot be realized until the transfer of functions is completed, these savings may be spread out between FY 2013-14 and FY 2014-15.

There will be additional cost savings for the Commission due to the reduction in space and a subsequent lower rental cost. These costs will be determined in consultation with the Department of General Services, Real Estate Services Division.

Office Space/Equipment

The Commission and the Bureau will work directly with the DGS, as warranted, to determine space needs for staff retained at the Commission and staff transferred to the Bureau.

The Commission has had a preliminary meeting with the DGS Real Estate Services Division and the Real Estate Leasing and Planning Section to discuss a reduction in rent due to space needs and the drop in real estate prices (price per square foot). The Commission's lease will go 'soft' in November 2012. The Commission is housed in a non-State building with a hearing room that is regularly used for Commission Meetings, Regulation Hearings, Workshops, Training, and other large meetings. The next step for the Commission will be the submission of the space related information in order to outline the Commission space needs and request DGS services.

The Commission will transfer to the Bureau the equipment currently assigned to the staff which are designated to be transferred. The equipment consists of computers, cellphones, chairs, scanners, printers, etc. The Commission will also provide to the Bureau the cubicles and all storage cabinets within the cubicles which are occupied by these staff. The transfer of this equipment will eliminate the need to purchase new equipment and result in a cost saving.

BILL LANGUAGE SECTION

Statutory Provisions Impacting the Commission and the Bureau

As it relates to the Commission and Bureau, GRP No. 2 includes the following statutory provisions:

- Amends Sections 19826, 19861, 19864, 19872, 19881 of, and repeals Section 19881.5 of the Business and Professions Code.
- Amends Section 12012.90 of the Government Code.
- Amends Sections 326.3 and 326.5 of the Penal Code.

Excerpt from the Legislative Counsel's Digest related to the Commission and the Bureau:

Existing law establishes the California Gambling Control Commission. Existing law vests the commission with jurisdiction over the operation, concentration, and supervision over gambling establishments in the state and over all persons or things having to do with the operation of gambling establishments. Among other duties, existing law authorizes the commission to act as the regulatory body for gambling establishments, proposition players, remote caller bingo, and tribal casinos, as specified, by creating policy, establishing regulations, issuing licenses, and administering certain Indian gaming revenues and trust funds, as defined.

Existing law vests the Department of Justice with law enforcement and investigatory powers pertaining to gambling establishments, gambling licenses, and work permits. Among other duties, existing law authorizes the department to conduct background investigations, monitor the conduct of licensees, and initiate disciplinary actions for violations of law, as specified.

This plan would consolidate the support, investigatory, auditing, and compliance functions of the California Gambling Control Commission and transfer these duties to the Department of Justice. The commission would retain jurisdiction over the licensing, policies, regulations, criteria, and standards pertaining to gaming.

GRP No. 2 Bill Language Related to the Commission and the Bureau

SEC. 26. Section 19826 of the Business and Professions Code is amended to read:

19826. The department *shall perform all investigatory functions required by this chapter, as well as auditing functions under tribal gaming compacts, and shall have all of the following responsibilities:*

(a) *To receive and process applications for any license, permit, or other approval, and to collect all related fees. The department shall investigate the qualifications of applicants before any license, permit, or other approval is issued, and to investigate any request to the commission for any approval that may be required pursuant to this chapter. The department may recommend the denial or the limitation, conditioning, or restriction of any license, permit, or other approval.*

(b) *To monitor the conduct of all licensees and other persons having a material involvement, directly or indirectly, with a gambling operation or its holding company, for the purpose of ensuring that licenses are not issued or held by, and that there is no direct or indirect material involvement with, a gambling operation or holding company by ineligible, unqualified, disqualified, or unsuitable persons, or persons whose operations are conducted in a manner that is inimical to the public health, safety, or welfare.*

(c) *To investigate suspected violations of this chapter or laws of this state relating to gambling, including any activity prohibited by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.*

(d) *To investigate complaints that are lodged against licensees, or other persons associated with a gambling operation, by members of the public.*

(e) *To initiate, where appropriate, disciplinary actions as provided in this chapter. In connection with any disciplinary action, the department may seek restriction, limitation, suspension, or revocation of any license or approval, or the imposition of any fine upon any person licensed or approved.*

(f) To adopt regulations reasonably related to its functions and duties as specified in this chapter.

(g) Approve the play of any controlled game, including placing restrictions and limitations on how a controlled game may be played. The department shall make available to the public the rules of play and the collection rates of each gaming activity approved for play at each gambling establishment on the Attorney General's Web site. Actual costs incurred by the department to review and approve game rules shall be reimbursed to the department by the licensee making the request.

SEC. 27. Section 19861 of the Business and Professions Code is amended to read:

19861. Notwithstanding subdivision (i) of Section 19801, the commission shall not deny a license to a gambling establishment solely because it is not open to the public, provided that all of the following are true: (a) the gambling establishment is situated in a local jurisdiction that has an ordinance allowing only private clubs, and the gambling establishment was in operation as a private club under that ordinance on December 31, 1997, and met all applicable state and local gaming registration requirements; (b) the gambling establishment consists of no more than five gaming tables; (c) video recordings of the entrance to the gambling room or rooms and all tables situated therein are made during all hours of operation by means of closed-circuit television cameras, and these recordings are retained for a period of 30 days and are made available for review by the department ~~or commission~~ upon request; and (d) the gambling establishment is open to members of the private club and their spouses in accordance with membership criteria in effect as of December 31, 1997. A gambling establishment meeting these criteria, in addition to the other requirements of this chapter, may be licensed to operate as a private club gambling establishment until November 30, 2003, or until the ownership or operation of the gambling establishment changes from the ownership or operation as of January 1, 1998, whichever occurs first. Operation of the gambling establishments after this date shall only be permitted if the local jurisdiction approves an ordinance, pursuant to Sections 19961 and 19962, authorizing the operation of gambling establishments that are open to the public. The commission shall adopt regulations implementing this section. Prior to the commission's issuance of a license to a private club, the department shall ensure that the ownership of the gambling establishment has remained constant since January 1, 1998, and the operation of the gambling establishment has not been leased to any third party.

SEC. 28. Section 19864 of the Business and Professions Code is amended to read:

19864. (a) Application for a state license or other commission action shall be ~~made~~ *submitted to the department* on forms furnished by the ~~commission~~ *department*.

(b) The application for a gambling license shall include all of the following:

(1) The name of the proposed licensee.

(2) The name and location of the proposed gambling establishment.

(3) The gambling games proposed to be conducted.

(4) The names of all persons directly or indirectly interested in the business and the nature of the interest.

(5) A description of the proposed gambling establishment and operation.

(6) Any other information and details the commission may require in order to discharge its ~~duty~~ *duties* properly.

SEC. 29. Section 19872 of the Business and Professions Code is amended to read:

19872. (a) No member of the commission may communicate ex parte, directly or indirectly, with any applicant, or any agent, representative, or person acting on behalf of an applicant, upon the merits of an application for a license, permit, registration, or approval while the application is *being investigated by the department* or pending disposition before the department or the commission.

(b) No applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application while the application is *being investigated by the department* or pending disposition before the department.

(c) No employee or agent of the department, applicant, or any agent, representative, or person acting on behalf of an applicant, and no person who has a direct or indirect interest in the outcome of a proceeding to consider an application for a license, permit, registration, or approval may communicate ex parte, directly or indirectly, with any member of the commission, upon the merits of the application, while the application is pending disposition before the commission.

(d) The receipt by a member of the commission of an ex parte communication prohibited by this section may provide the basis for disqualification of that member or the denial of the application. The commission shall adopt regulations to implement this subdivision.

(e) For the purposes of this subdivision, "ex parte" means a communication without notice and opportunity for all parties to participate in the communication.

(f) Nothing in this section precludes a communication made on the record at a public hearing on a properly agendized matter.

SEC. 30. Section 19881 of the Business and Professions Code is amended to read:

19881. (a) No corporation is eligible to receive a license to own a gambling enterprise unless the conduct of controlled gambling is among the purposes stated in its articles of incorporation and the articles of incorporation have been submitted to and approved by the ~~commission~~ department .

(b) The Secretary of State shall not accept for filing any articles of incorporation of any corporation that include as a stated purpose the conduct of controlled gambling, or any amendment thereto, or any amendment that adds this purpose to articles of incorporation already filed, unless the articles have, or amendment has, been approved by the ~~commission~~ department .

SEC. 31. Section 19881.5 of the Business and Professions Code is repealed.

~~19881.5. The commission may delegate to staff the approval of articles of incorporation statements of limited partnership, and other entity filings that are required to specifically state that gambling is one of the purposes for which the business entity is formed.~~

SEC. 198. Section 12012.90 of the Government Code is amended to read:

12012.90. (a) (1) For each fiscal year commencing with the 2002-03 fiscal year to the ~~2004-05~~ 2004-05 fiscal year, inclusive, the California Gambling Control Commission shall determine the aggregate amount of shortfalls in payments that occurred in the Indian Gaming Revenue Sharing Trust Fund pursuant to Section 4.3.2.1 of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution as determined below:

(A) For each eligible recipient Indian tribe that received money for all four quarters of the fiscal year, the difference between one million one hundred thousand dollars (\$1,100,000) and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(B) For each eligible recipient Indian tribe that received moneys for less than four quarters of the fiscal year, the difference between two hundred seventy-five thousand dollars (\$275,000) for each quarter in the fiscal year that a recipient Indian tribe was eligible to receive moneys and the actual amount paid to each eligible recipient Indian tribe during the fiscal year from the Indian Gaming Revenue Sharing Trust Fund.

(2) For purposes of this section, "eligible recipient Indian tribe" means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the tribal-state gaming compacts ratified and in effect as provided in subdivision (f) of Section 19 of Article IV of the California Constitution.

(b) The California Gambling Control Commission shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to backfill the Indian Gaming Revenue Sharing Trust Fund on or before the date of the May budget revision for each fiscal year.

(c) An eligible recipient Indian tribe may not receive an amount from the backfill appropriated following the estimate made pursuant to subdivision (b) that would give the eligible recipient Indian tribe an aggregate amount in excess of two hundred seventy-five thousand dollars (\$275,000) per eligible quarter. Any funds transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund that result in a surplus shall revert back to the Indian Gaming Special Distribution Fund following the authorization of the final payment of the fiscal year.

(d) Upon a transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and appropriation from the trust fund, the California Gambling Control Commission shall distribute the moneys without delay to eligible recipient Indian tribes for each quarter that a tribe was eligible to receive a distribution during the fiscal year immediately preceding.

(e) For each fiscal year commencing with the ~~2005-06~~ 2005-06 fiscal year, all of the following shall apply and subdivisions (b) to (d), inclusive, shall not apply:

(1) On or before the day of the May budget revision for each fiscal year, the California Gambling Control Commission shall determine the anticipated total amount of shortfalls in payment likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the upcoming fiscal year, and shall provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year. The anticipated total amount of shortfalls to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund shall be determined by the California Gambling Control Commission as follows:

(A) The anticipated number of eligible recipient tribes that will be eligible to receive payments for the next fiscal year, multiplied by one million one hundred thousand dollars (\$1,100,000), with that product reduced by the amount anticipated to be paid by the tribes directly into the Indian Gaming Revenue Sharing Trust Fund for the fiscal year.

(B) This amount shall be based upon actual payments received into the Indian Gaming Revenue Sharing Trust Fund the previous fiscal year, with adjustments made due to amendments to existing tribal-state compacts or newly executed tribal-state compacts with respect to payments to be made to the Indian Gaming Revenue Sharing Trust Fund.

(2) The Legislature shall transfer from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund an amount sufficient for each eligible recipient tribe to receive a total not to exceed two hundred seventy-five thousand dollars (\$275,000) for each quarter in the upcoming fiscal year an eligible recipient tribe is eligible to receive moneys, for a total not to exceed one million, one hundred thousand dollars (\$1,100,000) for the entire fiscal year. The California Gambling Control Commission shall make quarterly payments from the Indian Gaming Revenue Sharing Trust Fund to each eligible recipient Indian tribe within 45 days of the end of each fiscal quarter.

(3) If the transfer of funds from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Revenue Sharing Trust Fund.

(4) In the event the amount appropriated for the fiscal year is insufficient to ensure each eligible recipient tribe receives the total of two hundred seventy-five thousand dollars (\$275,000) for each fiscal quarter, the Department of Finance, after consultation with the California Gambling Control Commission, shall submit to the Legislature a request for a budget augmentation for the current fiscal year with an explanation as to the reason why the amount appropriated for the fiscal year was insufficient.

(5) At the end of each fiscal quarter, the California Gambling Control Commission's Indian Gaming Revenue Sharing Trust Fund report shall include information that identifies each of the eligible recipient tribes eligible to receive a distribution for that fiscal quarter, the amount paid into the Indian Gaming Revenue Sharing Trust Fund by each of the tribes pursuant to the applicable sections of the tribal-state compact, and the amount necessary to backfill from the Indian Gaming Special Distribution Fund the shortfall in the Indian Gaming Revenue Sharing Trust Fund in order for each eligible recipient tribe to receive the total of two hundred seventy-five thousand dollars (\$275,000) for the fiscal quarter.

~~—(6) Based upon the projected shortfall in the Indian Gaming Revenue Sharing Trust Fund, for the 2005-06 fiscal year, the sum of fifty million dollars (\$50,000,000) is hereby transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund and is hereby appropriated from that fund to the California Gambling Control Commission for distribution to each eligible recipient tribe pursuant to this section.~~

SEC. 290. Section 326.3 of the Penal Code is amended to read:

326.3. (a) The Legislature finds and declares all of the following:

(1) Nonprofit organizations provide important and essential educational, philanthropic, and social services to the people of the ~~State of California~~ state.

(2) One of the great strengths of California is a vibrant nonprofit sector.

(3) Nonprofit and philanthropic organizations touch the lives of every Californian through service and employment.

(4) Many of these services would not be available if nonprofit organizations did not provide them.

(5) There is a need to provide methods of fundraising to nonprofit organizations to enable them to provide these essential services.

(6) Historically, many nonprofit organizations have used charitable bingo as one of their key fundraising strategies to promote the mission of the charity.

(7) Legislation is needed to provide greater revenues for nonprofit organizations to enable them to fulfill their charitable purposes, and especially to meet their increasing social service obligations.

(8) Legislation is also needed to clarify that existing law requires that all charitable bingo must be played using a tangible card and that the only permissible electronic devices to be used by charitable bingo players are card-minding devices.

(b) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any remote caller bingo game that is played or conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the California Constitution, if the ordinance allows a remote caller bingo game to be played or conducted only in accordance with this section, including the following requirements:

(1) The game may be conducted only by the following organizations:

(A) An organization that is exempted from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(B) A mobilehome park association.

(C) A senior citizens organization.

(D) Charitable organizations affiliated with a school district.

(2) The organization conducting the game shall have been incorporated or in existence for three years or more.

(3) The organization conducting the game shall be licensed pursuant to subdivision (l) of Section 326.5.

(4) The receipts of the game shall be used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game.

(5) The operation of bingo may not be the primary purpose for which the organization is organized.

(c) (1) A city, county, or city and county may adopt an ordinance in substantially the following form to authorize remote caller bingo in accordance with the requirements of subdivision (b):

Sec. __.01. Legislative Authorization.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

Sec. __.02. Remote Caller Bingo Authorized.

Remote Caller Bingo may be lawfully played in the City, County, or City and County] pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code, and this chapter, and not otherwise.

Sec. __.03. Qualified Applicants: Applicants for Licensure.

(a) The following organizations are qualified to apply to the License Official for a license to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the taxes imposed under the Corporation Tax Law by Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code.

(2) A mobile home park association of a mobile home park that is situated in the City, County, or City and County].

(3) Senior citizen organizations.

(4) Charitable organizations affiliated with a school district.

(b) The application shall be in a form prescribed by the License Official and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the Governing Body of the City, County, or City and County] from time to time. The following documentation shall be attached to the application, as applicable:

(1) A certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the License Official may refer to the Franchise Tax Board's Internet Web site to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.

(2) Other evidence as the License Official determines is necessary to verify that the applicant is a duly organized mobile home park association of a mobile home park situated in the City, County, or City and County].

Sec. __.04. License Application: Verification.

The license shall not be issued until the License Official has verified the facts stated in the application and determined that the applicant is qualified.

Sec. __.05. Annual Licenses.

A license issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the license shall expire. A new license shall only be obtained upon filing a new application and payment of the license fee. The fact that a license has been issued to an applicant creates no vested right on the part of the licensee to continue to offer bingo for play. The Governing Body of the City, County, or City and County] expressly reserves the right to amend or repeal this chapter at any time by resolution. If this chapter is repealed, all licenses issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing resolution.

Sec. __.06. Conditions of Licensure.

(a) Any license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions.

(b) Each license issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.

(2) The licensed organization is responsible for ensuring that the conditions of this chapter and Sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's license. At the request of the organization, the Governing Body of the City, County, or City and County] shall hold a public hearing before revoking any license issued pursuant to this chapter.

(2) Nothing in this section shall require a city, county, or city and county to use this model ordinance in order to authorize remote caller bingo.

(d) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any remote caller bingo game, provided that administrative, managerial, technical, financial, and security personnel employed by the organization conducting the bingo game may be paid reasonable fees for services rendered from the revenues of bingo games, as provided in subdivision (m), except that fees paid under those agreements shall not be determined as a percentage of receipts or other revenues from, or be dependant on the outcome of, the game.

(e) A violation of subdivision (d) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game. A violation of any provision of this section, other than subdivision (d), is a misdemeanor.

(f) The city, county, or city and county that enacted the ordinance authorizing the remote caller bingo game, or the Attorney General, may bring an action to enjoin a violation of this section.

(g) No minors shall be allowed to participate in any remote caller bingo game.

(h) A remote caller bingo game shall not include any site that is not located within this state.

(i) An organization authorized to conduct a remote caller bingo game pursuant to subdivision (b) shall conduct the game only on property that is owned or leased by the organization, or the use of which is donated to the organization. Nothing in this subdivision shall be construed to require that the property that is owned or leased by, or the use of which is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(j) (1) All remote caller bingo games shall be open to the public, not just to the members of the authorized organization.

(2) No more than 750 players may participate in a remote caller bingo game in a single location.

(3) If the Governor ~~of California~~ or the President ~~of the United States~~ declares a state of emergency in response to a natural disaster or other public catastrophe occurring in California, an organization authorized to conduct remote caller bingo games may, while that declaration is in effect, conduct a remote caller bingo game pursuant to this section with more than 750 participants in a single venue if the net proceeds of the game, after deduction of prizes and overhead expenses,

are donated to or expended exclusively for the relief of the victims of the disaster or catastrophe, and the organization gives the California Gambling Control Commission at least 10 days' written notice of the intent to conduct that game.

(4) An organization authorized to conduct remote caller bingo games shall provide the commission with at least 30 days' advance written notice of its intent to conduct a remote caller bingo game. That notice shall include all of the following:

(A) The legal name of the organization and the address of record of the agent upon whom legal notice may be served.

(B) The locations of the caller and remote players, whether the property is owned by the organization or donated, and if donated, by whom.

(C) The name of the licensed caller and site manager.

(D) The names of administrative, managerial, technical, financial, and security personnel employed.

(E) The name of the vendor and any person or entity maintaining the equipment used to operate and transmit the game.

(F) The name of the person designated as having a fiduciary responsibility for the game pursuant to paragraph (2) of subdivision (k).

(G) The license numbers of all persons specified in subparagraphs (A) to (F), inclusive, who are required to be licensed.

(H) A copy of the local ordinance for any city, county, or city and county in which the game will be played. The commission shall post the ordinance on its Internet Web site.

(k) (1) A remote caller bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any remote caller bingo game. Only the organization authorized to conduct a remote caller bingo game shall operate that game, or participate in the promotion, supervision, or any other phase of a remote caller bingo game. Subject to the provisions of subdivision (m), this subdivision shall not preclude the employment of administrative, managerial, technical, financial, or security personnel who are not members of the authorized organization at a location participating in the remote caller bingo game by the organization conducting the game. Notwithstanding any other provision of law, exclusive or other agreements between the authorized organization and other entities or persons to provide services in the administration, management, or conduct of the game shall not be considered a violation of the prohibition against holding a legally cognizable financial interest in the conduct of the remote caller bingo game by persons or entities other than the charitable organization, or other entity authorized to conduct the remote caller bingo games, provided that those persons or entities obtain the gambling licenses, the key employee licenses, or the work permits required by, and otherwise comply with, Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code. Fees to be paid under any such agreements shall be reasonable and shall not be determined as a percentage of receipts or other revenues from, or be dependent on the outcome of, the game.

(2) An organization that conducts a remote caller bingo game shall designate a person as having fiduciary responsibility for the game.

(l) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct or participate in a remote caller bingo game, shall hold a legally cognizable financial interest in the conduct of such a game.

(m) An organization authorized to conduct a remote caller bingo game pursuant to this section shall not have overhead costs exceeding 20 percent of gross sales, except that the limitations of this section shall not apply to one-time, nonrecurring capital acquisitions. For purposes of this subdivision, "overhead costs" includes, but is not limited to, amounts paid for rent and equipment leasing and the reasonable fees authorized to be paid to administrative, managerial, technical, financial, and security personnel employed by the organization pursuant to subdivision (d). For the purpose of keeping its overhead costs below 20 percent of gross sales, an authorized organization may elect to deduct all or a portion of the fees paid to financial institutions for the use and processing of credit card sales from the amount of gross revenues awarded for prizes. In that case, the redirected fees for the use and processing of credit card sales shall not be included in "overhead costs" as defined in the California Remote Caller Bingo Act. Additionally, fees paid to financial institutions for the use and processing of credit card sales shall not be deducted from the proceeds retained by the charitable organization.

(n) No person shall be allowed to participate in a remote caller bingo game unless the person is physically present at the time and place where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this section.

(o) (1) An organization shall not cosponsor a remote caller bingo game with one or more other organizations unless one of the following is true:

(A) All of the cosponsors are affiliated under the master charter or articles and bylaws of a single organization.

(B) All of the cosponsors are affiliated through an organization described in paragraph (1) of subdivision (b), and have the same Internal Revenue Service activity code.

(2) Notwithstanding paragraph (1), a maximum of 10 unaffiliated organizations described in paragraph (1) of subdivision (b) may enter into an agreement to cosponsor a remote caller game, provided that the game shall have not more than 10 locations.

(3) An organization shall not conduct remote caller bingo more than two days per week.

(4) Before sponsoring or operating any game authorized under paragraph (1) or (2), each of the cosponsoring organizations shall have entered into a written agreement, a copy of which shall be provided to the commission, setting forth how the expenses and proceeds of the game are to be allocated among the participating organizations, the bank accounts into which all receipts are to be deposited and from which all prizes are to be paid, and how game records are to be maintained and subjected to annual audit.

(p) The value of prizes awarded during the conduct of any remote caller bingo game shall not exceed 37 percent of the gross receipts for that game. When an authorized organization elects to deduct fees paid for the use and processing of credit card sales from the amount of gross revenues for that game awarded for prizes, the maximum amount of gross revenues that may be awarded for prizes shall not exceed 37 percent of the gross receipts for that game, less the amount of redirected fees paid for the use and processing of credit card sales. Every remote caller bingo game shall be played until a winner is declared. Progressive prizes are prohibited. The declared winner of a remote caller bingo game shall provide his or her identifying information and a mailing address to the onsite manager of the remote caller bingo game. Prizes shall be paid only by check; no cash prizes shall be paid. The organization conducting the remote caller bingo game may issue a check to the winner at the time of the game, or may send a check to the declared winner by United States Postal Service certified mail, return receipt requested. All prize money exceeding state and federal exemption limits on prize money shall be subject to income tax reporting and withholding requirements under applicable state and federal laws and regulations and those reports and withholding shall be forwarded, within 10 business days, to the appropriate state or federal agency on behalf of the winner. A report shall accompany the amount withheld identifying the person on whose behalf the money is being sent. Any game interrupted by a transmission failure, electrical outage, or act of God shall be considered void in the location that was affected. A refund for a canceled game or games shall be provided to the purchasers.

(q) (1) The California Gambling Control Commission shall regulate remote caller bingo, including, but not limited to, licensure and operation. The commission shall establish reasonable criteria regulating, and shall require the licensure of, the following:

(A) Any person who conducts a remote caller bingo game pursuant to this section, including, but not limited to, an employee, a person having fiduciary responsibility for a remote caller bingo game, a site manager, and a bingo caller.

(B) Any person who directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides supplies, devices, services, or other equipment designed for use in the playing of a remote caller bingo game by any nonprofit organization.

(C) Beginning January 31, 2009, or a later date as may be established by the commission, all persons described in subparagraph (A) or (B) may submit to the commission a letter of intent to submit an application for licensure. The letter shall clearly identify the principal applicant, all categories under which the application will be filed, and the names of all those particular individuals who are applying. Each charitable organization shall provide an estimate of the frequency with which it plans to conduct remote caller bingo operations, including the number of locations. The letter of intent may be withdrawn or updated at any time.

(2) (A) The Department of Justice shall conduct background investigations and conduct field enforcement as it relates to remote caller bingo consistent with the Gambling Control Act (Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code) and as specified in regulations promulgated by the commission.

(B) Fees to cover background investigation costs shall be paid and accounted for in accordance with Section 19867 of the Business and Professions Code.

(3) (A) Every application for a license or approval shall be *submitted to the department and* accompanied by a nonrefundable fee, the amount of which shall be adopted by the commission by regulation.

(B) Fees and revenue collected pursuant to this paragraph shall be deposited in the California Bingo Fund, which is hereby created in the State Treasury. The funds deposited in the California Bingo Fund shall be available, upon appropriation by the Legislature, for expenditure by the commission and the department exclusively for the support of the commission and department in carrying out their duties and responsibilities under this section and Section 326.5.

(C) A loan is hereby authorized from the Gambling Control Fund to the California Bingo Fund on or after January 1, 2009, in an amount of up to five hundred thousand dollars (\$500,000) to fund operating, personnel, and other startup costs incurred by the commission *and the department* relating to this ~~act~~ section. Funds from the California Bingo Fund shall be available to the commission *and the department* upon appropriation by the Legislature in the annual Budget Act. The loan shall be subject to all of the following conditions:

(i) The loan shall be repaid to the Gambling Control Fund as soon as there is sufficient money in the California Bingo Fund to repay the amount loaned, but no later than five years after the date of the loan.

(ii) Interest on the loan shall be paid from the California Bingo Fund at the rate accruing to moneys in the Pooled Money Investment Account.

(iii) The terms and conditions of the loan are approved, prior to the transfer of funds, by the Department of Finance pursuant to appropriate fiscal standards. The commission may assess and *the department may* collect reasonable fees and deposits as necessary to defray the costs of regulation and oversight.

(r) The administrative, managerial, technical, financial, and security personnel employed by an organization that conducts remote caller bingo games shall apply for, obtain, and thereafter maintain valid work permits, as defined in Section 19805 of the Business and Professions Code.

(s) An organization that conducts remote caller bingo games shall retain records in connection with the remote caller bingo game for five years.

(t) (1) All equipment used for remote caller bingo shall be approved in advance by the California Gambling Control Commission pursuant to regulations adopted pursuant to subdivision (r) of Section 19841 of the Business and Professions Code.

(2) The California Gambling Control Commission shall monitor operation of the transmission and other equipment used for remote caller bingo, and monitor the game.

(u) (1) As used in this section, "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of this section. The audio or video technology used to link the facilities may include cable, Internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

(2) The caller in the live game must be licensed by the California Gambling Control Commission. A game may be called by a nonlicensed caller if the drawing of balls and calling of numbers or symbols by that person is observed and personally supervised by a licensed caller.

(3) Remote caller bingo games shall be played using traditional paper or other tangible bingo cards and daubers, and shall not be played by using electronic devices, except card-minding devices, as described in paragraph (1) of subdivision (p) of Section 326.5.

(4) Prior to conducting a remote caller bingo game, the organization that conducts remote caller bingo shall submit to the commission the controls, methodology, and standards of game play, which shall include, but not be limited to, the equipment used to select bingo numbers and create or originate cards, control or maintenance, distribution to participating locations, and distribution to players. Those controls, methodologies, and standards shall be subject to prior approval by the ~~commission~~ *department* , provided that the controls shall be deemed approved by the ~~commission~~ *department* after 90 days from the date of submission unless disapproved.

(v) A location shall not be eligible to participate in a remote caller bingo game if bingo games are conducted at that location in violation of Section 326.5 or any regulation adopted by the commission pursuant to Section 19841 of the Business and Professions Code, including, but not limited to, a location at which unlawful electronic devices are used.

(w) (1) The vendor of the equipment used in a remote caller bingo game shall have its books and records audited at least annually by an independent California certified public accountant and shall submit the results of that audit to the ~~California Gambling Control Commission~~ *department* within 120 days after the close of the vendor's fiscal year. In addition, the ~~California Gambling Control Commission~~ *department* may audit the books and records of the vendor at any time.

(2) An authorized organization that conducts remote caller bingo games shall provide copies of the records pertaining to those games to the ~~California Gambling Control Commission~~ *Department of Justice* within 30 days after the end of each calendar quarter. In addition, those records shall be audited by an independent California certified public accountant at least annually and copies of the audit reports shall be provided to the ~~California Gambling Control Commission~~ *department* within 120 days after the close of the organization's fiscal year. The audit report shall account for the annual amount of fees paid to financial institutions for the use and processing of credit card sales by the authorized organization and the amount of fees for the use and processing of credit card sales redirected from "overhead costs" and deducted from the amount of gross revenues awarded for prizes.

(3) The costs of the licensing and audits required by this section shall be borne by the person or entity required to be licensed or audited. The audit shall enumerate the receipts for remote caller bingo, the prizes disbursed, the overhead costs, and the amount retained by the nonprofit organization. The ~~commission~~ *department* may audit the books and records of an organization that conducts remote caller bingo games at any time.

(4) If, during an audit, the ~~commission~~ *department* identifies practices in violation of this section, the license for the audited entity may be suspended pending review and hearing before the commission for a final determination.

(5) No audit required to be conducted by the ~~commission~~ *department* shall commence before January 1, 2010.

(x) (1) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(2) Notwithstanding paragraph (1), if paragraph (1) or (3) of subdivision (u), or the application of either of those provisions, is held invalid, this entire section shall be invalid.

(y) The commission shall submit a report to the Legislature, on or before January 1, 2012, on the fundraising effectiveness and regulation of remote caller bingo, and other matters that are relevant to the public interest regarding remote caller bingo.

(z) The following definitions apply for purposes of this section:

(1) "Commission" means the California Gambling Control Commission.

(2) "*Department*" means the *Department of Justice*.

~~(2)~~

(3) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

SEC. 291. Section 326.5 of the Penal Code is amended to read:

326.5. (a) Neither the prohibition on gambling in this chapter nor in Chapter 10 (commencing with Section 330) applies to any bingo game that is conducted in a city, county, or city and county pursuant to an ordinance enacted under Section 19 of Article IV of the ~~State~~ *California*

Constitution, if the ordinance allows games to be conducted only in accordance with this section and only by organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and Taxation Code and by mobilehome park associations, senior citizens organizations, and charitable organizations affiliated with a school district; and if the receipts of those games are used only for charitable purposes.

(b) It is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution. Security personnel employed by the organization conducting the bingo game may be paid from the revenues of bingo games, as provided in subdivisions (j) and (k).

(c) A violation of subdivision (b) shall be punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine is deposited in the general fund of the city, county, or city and county that enacted the ordinance authorizing the bingo game. A violation of any provision of this section, other than subdivision (b), is a misdemeanor.

(d) The city, county, or city and county that enacted the ordinance authorizing the bingo game may bring an action to enjoin a violation of this section.

(e) No minors shall be allowed to participate in any bingo game.

(f) An organization authorized to conduct bingo games pursuant to subdivision (a) shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization.

(g) All bingo games shall be open to the public, not just to the members of the authorized organization.

(h) A bingo game shall be operated and staffed only by members of the authorized organization that organized it. Those members shall not receive a profit, wage, or salary from any bingo game. Only the organization authorized to conduct a bingo game shall operate such a game, or participate in the promotion, supervision, or any other phase of a bingo game. This subdivision does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.

(i) No individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, shall hold a financial interest in the conduct of a bingo game.

(j) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profit shall be used only for charitable purposes.

(k) With respect to other organizations authorized to conduct bingo games pursuant to this section, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Proceeds are the receipts of bingo game conducted by organizations not within subdivision (j). Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) (A) Except as provided in subparagraph (B), a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(B) For the purposes of bingo games conducted by the Lake Elsinore Elks Lodge, a portion of the proceeds, not to exceed 20 percent of the proceeds before the deduction for prizes, or three thousand dollars (\$3,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. Any amount of the proceeds that is additional to that permitted under subparagraph (A), up to one thousand dollars (\$1,000), shall be used for the purpose of financing the rebuilding of the facility and the replacement of equipment that was destroyed by fire in 2007. The exception to subparagraph (A) that is provided by this subparagraph shall remain in effect only until the cost of rebuilding the facility is repaid, or January 1, 2019, whichever occurs first.

(3) The proceeds may be used to pay license fees.

(4) A city, county, or city and county that enacts an ordinance permitting bingo games may specify in the ordinance that if the monthly gross receipts from bingo games of an organization within this subdivision exceed five thousand dollars (\$5,000), a minimum percentage of the proceeds shall be used only for charitable purposes not relating to the conducting of bingo games and that the balance shall be used for prizes, rental of property, overhead, administrative expenses, and payment of license fees. The amount of proceeds used for rental of property, overhead, and administrative expenses is subject to the limitations specified in paragraph (2).

(l) (1) A city, county, or city and county may impose a license fee on each organization that it authorizes to conduct bingo games. The fee, whether for the initial license or renewal, shall not exceed fifty dollars (\$50) annually, except as provided in paragraph (2). If an application for a license is denied, one-half of any license fee paid shall be refunded to the organization.

(2) In lieu of the license fee permitted under paragraph (1), a city, county, or city and county may impose a license fee of fifty dollars (\$50) paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee for law enforcement and public safety costs incurred by the city, county, or city and county that are directly related to bingo activities may be imposed and shall be collected monthly by the city, county, or city and county issuing the license; however, the fee shall not exceed the actual costs incurred in providing the service.

(m) No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place where the bingo game is being conducted.

(n) The total value of prizes available to be awarded during the conduct of any bingo games shall not exceed five hundred dollars (\$500) in cash or kind, or both, for each separate game which is held.

(o) As used in this section, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers or symbols, selected at random and announced by a live caller. Notwithstanding Section 330c, as used in this section, the game of bingo includes tangible cards having numbers or symbols that are concealed and preprinted in a manner providing for distribution of prizes. Electronics or video displays shall not be used in connection with the game of bingo, except in connection with the caller's drawing of numbers or symbols and the public display of that drawing, and except as provided in subdivision (p). The winning cards shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All preprinted cards shall bear the legend, "for sale or use only in a bingo game authorized under California law and pursuant to local ordinance." Only a covered or marked tangible card possessed by a player and presented to an attendant may be used to claim a prize. It is the intention of the Legislature that bingo as defined in this subdivision applies exclusively to this section and shall not be applied in the construction or enforcement of any other provision of law.

(p) (1) Players who are physically present at a bingo game may use hand-held, portable card-minding devices, as described in this subdivision, to assist in monitoring the numbers or symbols announced by a live caller as those numbers or symbols are called in a live game. Card-minding devices may not be used in connection with any game where a bingo card may be sold or distributed after the start of the ball draw for that game. A card-minding device shall do all of the following:

(A) Be capable of storing in the memory of the device bingo faces of tangible cards purchased by a player.

(B) Provide a means for bingo players to input manually each individual number or symbol announced by a live caller.

(C) Compare the numbers or symbols entered by the player to the bingo faces previously stored in the memory of the device.

(D) Identify winning bingo patterns that exist on the stored bingo faces.

(2) A card-minding device shall perform no functions involving the play of the game other than those described in paragraph (1).

Card-minding devices shall not do any of the following:

(A) Be capable of accepting or dispensing any coins, currency, or other representative of value or on which value has been encoded.

(B) Be capable of monitoring any bingo card face other than the faces of the tangible bingo card or cards purchased by the player for that game.

(C) Display or represent the game result through any means, including, but not limited to, video or mechanical reels or other slot machine or casino game themes, other than highlighting the winning numbers or symbols marked or covered on the tangible bingo cards or giving an audio alert that the player's card has a prize-winning pattern.

(D) Determine the outcome of any game or be physically or electronically connected to any component that determines the outcome of a game or to any other bingo equipment, including, but not limited to, the ball call station, or to any other card-minding device. No other player-operated or player-activated electronic or electromechanical device or equipment is permitted to be used in connection with a bingo game.

(3) (A) A card-minding device shall be approved in advance by the ~~commission~~ *department* as meeting the requirements of this section and any additional requirements stated in regulations adopted by the commission. Any proposed material change to the device, including any change to the software used by the device, shall be submitted to the ~~commission~~ *department* and approved by the ~~commission~~ *department* prior to implementation.

(B) In accordance with Chapter 5 (commencing with Section 19800) of Division 8 of the Business and Professions Code, the commission shall establish reasonable criteria for, and require the licensure of, any person that directly or indirectly manufactures, distributes, supplies, vends, leases, or otherwise provides card-minding devices or other supplies, equipment, or services related to card-minding devices designed for use in the playing of bingo games by any nonprofit organization.

(C) A person or entity that supplies or services any card-minding device shall meet all licensing requirements established by the commission in regulations.

(4) The costs of any testing, certification, license, or determination required by this subdivision shall be borne by the person or entity seeking it.

(5) On and after January 1, 2010, ~~the commission and~~ the Department of Justice may inspect all card-minding-devices at any time without notice, and may immediately prohibit the-use of any device that does not comply with the requirements of-subdivision (r) of Section 19841 of the Business and Professions-Code. The Department of Justice may at any time, without notice, impound any device the use of which has been prohibited by the-commission.

(6) The California Gambling Control Commission shall issue regulations to implement the requirements of this subdivision and may issue regulations regarding the means by which the operator of a bingo game, as required by applicable law, may offer assistance to a player with disabilities in order to enable that player to participate in a bingo game, provided that the means of providing that assistance shall not be through any electronic, electromechanical, or other device or equipment that accepts the insertion of any coin, currency, token, credit card, or other means of transmitting value, and does not constitute or is not a part of a system that constitutes a video lottery terminal, slot machine, or device prohibited by Chapter 10 (commencing with Section 330).

(7) The following definitions apply for purposes of this subdivision:

(A) "Commission" means the California Gambling Control Commission.

(B) "*Department*" means the Department of Justice.

~~(B)~~

(C) "Person" includes a natural person, corporation, limited liability company, partnership, trust, joint venture, association, or any other business organization.

**LITTLE HOOVER COMMISSION
TESTIMONY FROM GRP2 HEARING**



OFFICE OF THE GOVERNOR

April 16, 2012

Stuart Drown
Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Dear Mr. Drown:

The Little Hoover Commission has requested my testimony regarding the proposal in the Governor's Reorganization Plan to shift certain functions performed by the California Gambling Control Commission (the CGCC) to the Bureau of Gambling Control at the Department of Justice (the Bureau). The proposal is designed to consolidate field-investigation and field-compliance work at the Bureau, which will enhance the expertise of the State's gaming regulators and lead to a system of regulation that is more efficient and better serves the public.

When the State Gaming Agency was created by the Gambling Control Act and the tribal -gaming compacts, the Bureau was established to serve as the Agency's investigative, compliance, and law enforcement arm – in essence, the regulator in the field. The Bureau was charged with performing background investigations of applicants for licenses, investigating complaints regarding cardrooms and tribal casinos, and ensuring that cardrooms and tribal casinos were in compliance with applicable laws and regulations. The CGCC was created to be the State Gaming Agency's licensing authority with a variety of policy and adjudicatory powers, and was to rely on the Bureau's investigative reports to make its decisions. Over the past decade, largely through executive orders and budget bills, a parallel regulatory system has evolved under which the CGCC has become the primary field-regulator for tribal casinos, with the Bureau retaining law-enforcement powers but limited field-regulator functions in those casinos. The Bureau continues to be the primary field-regulator of the cardrooms, although the CGCC has assumed some of those duties as well.

This parallel system has created a diffusion of expertise, redundancy in functions, confusion among tribes and cardroom operators, and counterproductive competition between the CGCC and the Bureau. For example, under tribal-gaming compacts, tribes are required to have

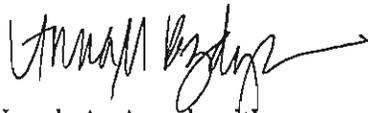
surveillance systems, and the State has the power to inspect and ensure compliance with applicable standards for those systems. The CGCC may send out auditors to a tribal casino to review the surveillance system in connection with an audit of the casino, while the Bureau at the same time may send out field representatives to check for legal compliance regarding that same surveillance system, or the Bureau may also be doing an administrative or criminal investigation involving that system. Although the CGCC and the Bureau have made efforts to coordinate their field work, those efforts have not always been successful.

As to diffusion of expertise, the CGCC and the Bureau each have teams of auditors and compliance inspectors who share the mission of regulating gaming in California, but their divided structure makes them poorly positioned to share information relevant to overall gaming regulation and to build collective expertise. Although the operations of tribal casinos and cardrooms are not identical, primarily because casinos have slot machines and cardrooms do not, the subject areas of audits and inspections—such as the installation and operation of surveillance systems, the security of cash transactions, and the integrity of the play of table games—are substantively the same. Having parallel sets of gaming inspectors is like a city having one group of restaurant inspectors for pizza parlors and a separate group for hamburger joints.

The California gaming industry is complex, with approximately 90 cardrooms and 60 tribal casinos, and there are significant differences in the rules that apply to particular cardrooms and to particular casinos, with a wide range of variables contained in state law, gaming compacts, and local ordinances. What all 150 of these gaming operations have in common, however, is that they are cash-intensive businesses in an industry with a long history of potential criminal influences, addictive behavior among patrons, and the need for close regulation and attention to public safety. These businesses are run well in California, and the public should be confident that they will be safe and treated fairly when visiting a cardroom or a casino. But that requires a vigorous, coordinated effort of field regulation, which is best accomplished by concentration of field regulation in a single department.

I thank the Commission for the opportunity to submit this written testimony, and I will be available to answer any questions before the Commission during my testimony.

Very Truly Yours,



Jacob A. Appelsmith
Senior Advisor to the Governor

for



GAMBLING CONTROL COMMISSION

STEPHANIE SHIMAZU, CHAIRPERSON
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April 16, 2012

Mr. Stuart Drown, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Re: Governor's Reorganization Plan Consolidating Functions of the California Gambling Control Commission within the Bureau of Gambling Control (Division of Law Enforcement, Department of Justice)

Dear Mr. Drown:

Thank you for the opportunity to address the Little Hoover Commission regarding the proposed consolidation of certain functions between the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau), as provided in the Governor's Reorganization Plan No. 2 of 2012 (GRP). My written testimony on this matter is provided below.

Background

California's system of regulation and enforcement of gambling establishments (cardrooms) and review of certain aspects of tribal casinos is conducted by two agencies: the California Gambling Control Commission and the Bureau of Gambling Control. The Commission is an independent entity within the Executive Branch whose commissioners are all gubernatorial appointees subject to Senate confirmation. The Bureau is under the Division of Law Enforcement within the Department of Justice, under the authority of the Attorney General. Generally, the Commission has a policy making role and decision making authority while the Bureau has investigatory responsibilities and enforcement authority. Our authority to perform these duties is derived from the Gambling Control Act, Tribal-State gaming compacts, Executive Orders, and other statutes. Currently, there are 89 cardrooms licensed to operate in California and 59 tribal casinos.

Specifics of Governor's Reorganization Plan

The GRP seeks to streamline government, increase efficiency and reduce unnecessary costs. The Commission supports each of these concepts and is prepared to do our part

to ensure that we meet each of these important goals. We take very seriously our duties of protecting the public and ensuring the integrity of gambling in the State. At the same time, we endeavor to carry out our responsibilities in a way that does not unfairly burden the gaming industry that we regulate and the tribal gaming agencies with whom we work. We continually explore ideas to streamline our processes and increase efficiency wherever possible.

The GRP includes provisions to amend certain sections of the Gambling Control Act and transfer some of the duties currently performed by the Commission to the Bureau. Specifically, the GRP indicates that the Bureau will receive and process applications for any license, permit, or other approval; provide the forms for those applications; collect all related fees; approve Articles of Incorporation; and perform all auditing functions under tribal compacts. We note that the GRP also provides that the Bureau shall perform all investigatory functions; however, since the Bureau currently has full investigatory authority under the Act, we do not foresee any transfer of duties in this area. We assume the purpose of the language addressing such functions was merely to clarify those responsibilities.

GRP's Impact on Commission

Licensing

Currently, the Commission receives all applications and fees for initial and renewal licenses for cardroom owners, key employees, third party proposition players services, gambling businesses, and manufacturers and distributors; registrations for third party proposition player services and gambling businesses; initial and renewal work permits for employees working in local jurisdictions that do not issue permits; and initial and renewal findings of suitability for tribal key employees, gaming resource suppliers, and financial sources. Additionally, it receives applications and any applicable fees related to requests for approval of Articles of Incorporation, temporary cardroom tables, increases and reductions in tables, relocation, and business name changes.

Commission licensing staff receives applications and fees, determines whether applications are complete and the submitted fees are correct, and inputs application and fee information in the agencies' shared licensing system. They issue interim key employee licenses and temporary work permits concurrently with the processing of applications. Commission staff also tracks licenses, registrations, and findings of suitability approved by the Commission to determine renewal dates and sends written notices to ensure that renewal applications and fees are submitted in a timely manner. If applicable, licensing staff monitors compliance with conditions imposed by the Commission. Additionally, if renewals or fees are not submitted within the required timelines, staff prepares notices to licensees and prepares items for Commission consideration that may result in suspension of gaming activities or surrender of licenses. Once an application package is deemed complete, staff forwards it to the Bureau to conduct an investigation and, if applicable, a recommendation to the Commission. We

expect that all work performed by Commission staff up to this point in the process will be transferred to the Bureau. We further assume that some portion of the Commission's licensing staff would be transferred to the Bureau.

Once an investigatory report is received from the Bureau, Commission staff reviews and provides any additional relevant information, such as information submitted by the applicant, previous actions taken, historical context, and the effect that one decision may have on other individuals and entities, and provides a recommendation to the commissioners. If individual commissioners request clarifying information, staff assists in obtaining such information. Both licensing and legal staff respond to questions posed by commissioners and assist in drafting potential conditions for licenses and options available to commissioners for specific items. At least twice a month at public meetings, commissioners review the various applications discussed above and either deny or approve them. Denials are subject to administrative hearings with an administrative law judge conducted pursuant to the Administrative Procedures Act or, alternatively, hearings before the Commission conducted pursuant to the Gambling Control Act. The Commission ultimately makes the final decision, which may then be subject to a writ of mandate by the Superior Court. Once final action has been taken, staff will send written notifications to the applicants and, where applicable, issue licenses to owners and badges to employees. We expect that Commission staff's functions during this review and approval/denial process would be maintained.

With the exception of approval of Articles of Incorporation, we believe that pursuant to the provisions of the GRP, the Commission would continue to maintain the authority to make all the aforementioned determinations, as well as those relating to the sale or transfer of interests for cardroom owners, purchase agreements for cardroom businesses and loan transactions entered into by cardroom owners. These latter matters come before the Commission for approval, but are not required to be submitted via an application or with a related fee.

Compliance

The Commission also conducts reviews of four distinct matters provided for in Tribal-State class III gaming compacts. First, it conducts financial reviews of contributions to the Indian Gaming Special Distribution Fund (SDF) or General Fund by certain tribes. While some compacts simply provide for a specified fee per gaming device, most involve complicated computations and analyses of "net win," as defined in the applicable compact, to verify payments to the State. In the event that a tribe does not agree with the staff's findings, it can seek reconciliation with the Commission prior to a meet and confer with the Governor's Office. Those matters are discussed with tribes in a closed session meeting of the Commission. Second, it conducts reviews and inspections of minimum internal control standards promulgated by tribal gaming agencies, as specified in uniform Tribal-State regulation CGCC-8 or applicable Tribal-State gaming compact. Third, it conducts reviews and inspections of electronic gaming devices (slot machines) to determine compliance with provisions of certain compacts

related to testing of those devices. Fourth, it serves as the Trustee and Administrator of the Revenue Sharing Trust Fund (RSTF), which provides quarterly distributions to federally recognized tribes in the State who either do not have class III casinos or have smaller casinos with a limited number of gaming devices.

Given the language in the GRP which provides that all auditing functions under tribal compacts shall be performed by the Bureau, the first three duties discussed above will be transferred to that agency, with two exceptions. With respect to discussing reconciliations of disputes related to financial reviews of payments to the SDF, General Fund, or other designated fund, the Commission would retain that role. The Commission would need to receive the Bureau's compliance reports to carry out this responsibility effectively. Additionally, the Commission would continue to collect and account for contributions to the SDF, provide information to the Controller to calculate amounts available to counties for local mitigation grants from the SDF, and provide annual information to the Department of Finance to calculate the total revenue in the SDF. Due to the unique nature of the responsibilities that will be transferred to the Bureau, and the extensive training provided to our employees, as well as their experience gained in the field, we assume that most of the Commission staff currently assigned to these duties would be transferred to the Bureau.

With respect to functions related to the RSTF, the Commission's designation as Trustee of the RSTF cannot be transferred to DOJ, as it is a provision of the Tribal-State compacts that is not subject to change unless amended by the Tribes and the State. Currently, the Commission's activities include invoicing tribes for payments to the RSTF, preparing and approving Quarterly Distribution Reports, conducting RSTF eligibility reviews (including document reviews and on-site counts of gaming devices), administering the RSTF shortfall process whereby funds are transferred from the Special Distribution Fund to the RSTF, conducting gaming device license draws and issuing licenses, and conducting reviews to ensure gaming devices are placed in commercial operation within 12 months of licensure. Because the Bureau will be conducting activities in the field, it is expected that its staff will conduct eligibility reviews and "commercial operation" reviews, and report those findings to the Commission. The Commission would retain all other activities, including the distribution of the funds. It should be noted that the agencies would need to maintain a high level of coordination as the Commission would need pertinent information on a quarterly basis to ensure that RSTF distributions were appropriate and completed in a timely manner.

Actions Needed to Implement the Proposed Consolidation

In order to fully execute and implement the proposal in the GRP, we believe the following processes would need to take place by the Commission, the Bureau and/or the Administration:

- Amend regulations to transfer responsibilities to the Bureau, including intake and processing of applications and fees. Revise all forms regarding these matters to reflect the Bureau's information.
- Revoke or replace Executive Order D-66-03, which authorizes the Commission to calculate, invoice, audit, and accept reconciliations of payments by certain gaming tribes to the Special Distribution Fund. The Bureau should be designated as the agency responsible for conducting audits of the SDF.
- Provide written notice to tribes, as specified in applicable Tribal-State Gaming Compacts, that the State Gaming Agency shall be the Bureau of Gambling Control for those purposes currently delegated to the Commission.
- Create a working group composed of executive staff from the Commission and the Bureau to determine duties and responsibilities not clearly delineated in the GRP.
- Seek amendments to the Gambling Control Act or other statutes, if necessary, to clarify any ambiguity or address other matters not provided for in the GRP. (For example, Business and Professions Code Section 19876(b) should be amended to require licensees to file renewal applications with the Bureau rather than the Commission.)
- Obtain guidance from the Department of Finance and the Department of Personnel Administration to facilitate the transfer of appropriate staff from the Commission to the Bureau.

Outstanding Issues to be Addressed

- **Registrations:** Currently, Commission staff receives and processes applications and fees for registration of Third Party Proposition Player Services and Gambling Businesses. These are not subject to approval of the Commission, but, instead, are approved or denied by the Executive Director. Approvals result in certificates signed by the Chair of the Commission. Additionally, players and supervisors for these businesses must be registered and receive badges to provide services in cardrooms. Because registrations are not subject to the approval of the Commission and the Bureau will receive the applications and fees and conduct the required reviews, we believe that it would be appropriate to transfer all of these related functions to the Bureau.
- **Staffing Levels:** Because the Commission will retain its jurisdiction over licensing, policies, and regulations, we expect to retain some level of staffing to ensure that we continue to carry out these responsibilities and other essential functions efficiently. In addition to some licensing staff, we will need to maintain

some minimal level of auditing staff, as well as support in our Legal, Support Services, and Legislation/Regulation divisions. We will work with the appropriate agencies to determine the Commission's staffing needs and coordinate the transfer of staff to the Bureau.

Thank you again for accepting this written testimony. I look forward to responding to questions by the commissioners during the public meeting. In the meantime, should you have any additional questions, please feel free to contact me or Tina Littleton, Executive Director, at (916) 263-0700.

Sincerely,



STEPHANIE K. SHIMAZU
Chairperson

cc: Tina Littleton, Executive Director, CGCC
Martin Horan Jr., Acting Bureau Chief, Bureau of Gambling Control
Jacob A. Appelsmith, Director, Alcoholic Beverage Control and
Senior Advisor, Office of the Governor



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April 18, 2012

Stuart Drown, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

RE: GOVERNOR'S REORGANIZATION PLAN

Dear Executive Director Drown:

The California Department of Justice, Bureau of Gambling Control (Bureau) appreciates the opportunity to submit written testimony relative to the Governor's Reorganization Plan as it proposes the consolidation within the Bureau of certain regulatory functions currently performed by the California Gambling Control Commission (Commission). The Bureau views the Plan as a necessary and appropriate step toward resolving the legal and operational problems stemming from the Commission's involvement in licensing, compliance and enforcement activities that were not intended for that agency under the Gambling Control Act. As such, the Bureau is supportive of the Plan.

As discussed in the attached document, the Bureau has identified certain functions currently performed by the Commission, which, if transferred to the Bureau, would significantly improve the efficiency and effectiveness of the State's gaming regulatory efforts. The Governor's Reorganization Plan would effectively serve to implement this action, as well as appropriately distribute other licensing processes.

Please contact me should you have any questions in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Martin J. Horan, IV".

MARTIN J. HORAN, IV
Acting Bureau Chief

For KAMALA D. HARRIS
Attorney General

Attachment

WRITTEN TESTIMONY BEFORE THE LITTLE HOOVER COMMISSION

GOVERNOR'S REORGANIZATION PLAN – GAMING REGULATION

SUMMARY

When creating California's current framework for gaming regulation, the Gambling Control Act in 1998 established two state agencies with clearly delineated roles and responsibilities to separate prosecutorial and adjudicatory functions and protect against improper ex parte communications in the licensing process. Fundamentally, the Bureau of Gambling Control (Bureau) within the Department of Justice is designated as the law enforcement component, encompassing background investigations of license applicants and oversight of gaming operations to ensure compliance with laws and regulations. The Gambling Control Commission (Commission) is primarily designated to serve as the judicial body that issues licenses, adjudicates licensing matters and other administrative actions, and as the policy maker that sets minimum standards for gaming operations. This dual-agency structure was designed to ensure the clear separation of powers as necessary for proper checks and balances.

Over the years, the role of the Commission has expanded to include compliance and enforcement activities not intended for that agency under the Act. The Commission now engages in comprehensive field inspections and financial audits of tribal gaming operations, as well as testing and analysis of gambling devices. This has resulted in disparate treatment of tribal and non-tribal gaming in which the Bureau exercises compliance enforcement over the cardroom industry, while the Commission exercises compliance enforcement over the tribal casino industry. This division of responsibility is not what the 1999 and subsequent Tribal-State Gaming Compacts contemplated. When the Tribal-State Gaming Compacts were negotiated, it was contemplated that the roles of the State's gaming agencies within Indian country would mirror their roles within the rest of California, but this is not currently the case. Additionally, the Commission has become increasingly involved in the licensing process, which includes determinations of suitability of applicants for tribal key employees and suppliers, by engaging in background investigations and supplementing the Bureau's reports that serve as the basis for suitability determinations.

The functional boundaries of both agencies are now blurred and deviate substantially from legislative intent, resulting in inefficient duplication of effort, dysfunction, inter-agency conflict, and lapses in proper administrative procedure. The Governor's Reorganization Plan would effectively alleviate most of these problems by properly realigning core functions between the agencies, as well as serve as the basis for commensurate adjustments in each agency's spending authority.

STATUTORY RESPONSIBILITIES AND POWERS

When enacting the Gambling Control Act (Business and Professions Code 19800 et. sec.), the legislature clearly envisioned a separation of powers between the two state regulatory agencies. In general, the Bureau was intended to function as the law enforcement agency that monitors industry participants, investigates gambling violations, enforces the State's gambling laws through use of the criminal laws and administrative processes created by the Act, and investigates the qualifications of applicants seeking licensure. The Commission was to function as a policy-making and administrative agency with respect to all matters relating to controlled gaming, and acting in an adjudicative capacity with respect to license issuance and discipline. These statutory responsibilities and powers are summarized below.

Bureau responsibilities - Business and Professions (B&P) Code Section 19826:

To investigate the qualifications of applicants; to monitor the conduct of all licensees and other persons having material involvement with a gambling operation; to investigate suspected violations of the Act or laws of this state relating to gambling; to investigate complaints that are lodged against licensees or other persons associated with a gambling operation; to initiate disciplinary actions; to adopt regulations reasonably related to its functions and duties; approve the play of any controlled game.

Bureau powers - B&P Code Section 19827:

All powers necessary and proper to enable it to carry out fully and effectually the duties and responsibilities specified in the Act. The investigatory powers include: Visit, investigate, and place expert accountants, and technicians in all areas of the premises wherein controlled gambling is conducted for the purpose of determining compliance with the rules and regulations adopted pursuant to the GCA; visit, inspect, and examine all premises where gambling equipment is manufactured, sold, or distributed; inspect all equipment and supplies in any gambling establishment or in any premises where gambling equipment is manufactured, sold, or distributed; summarily seize, remove, and impound any equipment, supplies, documents, or records from any licensed premises for the purpose of examination and inspection; demand access to, and inspect, examine, photocopy, and audit all papers, books, and records of an owner licensee on the gambling premises in the presence of the licensee or his or her agent; obtain an inspection warrant pursuant to Section 1822.60 of the Code of Civil Procedure to inspect and seize for the inspection, examination, or photocopying any property possessed or controlled by any applicant or licensee; investigate for purposes of prosecution any suspected criminal violation of the Act; issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials; administer oaths, examine witnesses under oath, take evidence, and take depositions and affidavits or declarations.

Commission responsibilities - B&P Code Section 19823:

Assure that licenses, approvals, and permits are not issued to, or held by, unqualified or disqualified persons; assure that there is no material involvement with a gambling operation by unqualified or disqualified persons.

Commission powers - B&P Code Section 19824:

All powers necessary and proper to enable it to carry out fully and effectually the duties and responsibilities specified in the Act. The powers include: Require any person to apply for a license, permit, registration, or approval as specified in the Act; deny any application for a license, permit, or approval; Limit, condition, or restrict any license, permit, or approval, or impose any fine upon any person licensed or approved; condition, restrict, discipline, or take action against the license of an individual owner endorsed on the license certificate of the gambling enterprise whether or not the Commission takes action against the license of the gambling enterprise; approve or disapprove transactions, events, and processes; take actions to ensure that no ineligible, unqualified, disqualified, or unsuitable persons are associated with controlled gambling activities; take actions to ensure that gambling activities take place only in suitable locations; grant temporary licenses, permits, or approvals on appropriate terms and conditions; institute a civil action in any superior court against any person subject to the Act to restrain a violation of the Act; issue subpoenas to compel attendance of witnesses and production of documents and other material things at a meeting or hearing of the Commission or its committees, including advisory committees. Pursuant to Business and Professions Code Section 19840, the Commission may adopt regulations for the administration and enforcement of the Act.

GENERAL FUNCTIONS OF THE BUREAU

In strict accordance with the Act, the Bureau historically has limited its fundamental roles to licensing investigations, criminal investigations, and compliance enforcement over the cardroom and tribal gaming industries. It conducts background investigations on specified applicants for licensure or Finding of Suitability and submits its findings and recommendation to the Commission. The Bureau also conducts on-site compliance inspections of cardrooms and tribal casinos, conducts criminal investigations of suspected violations of laws and ordinances, and initiates prosecutions and accusations as appropriate. As discussed later, the Bureau performs on-site financial evaluations and comprehensive compliance inspections of cardrooms, but the Bureau has little to no involvement in these activities as they relate to tribal casinos. All regulatory functions performed by the Bureau are within the Bureau's responsibilities and powers under the Act.

COMMISSION FUNCTIONS VERSUS STATUTORY INTENT

The Commission has become involved in regulatory functions for which the Bureau has responsibility and powers under the Act, as explained below.

Financial Evaluations of Tribal Gaming Operations

Pursuant to the Tribal-State Gaming Compacts, tribal payments to the Indian Gaming Special Distribution Fund (SDF) became due in October 2002 (Compact Section 5.1(b)), and the Commission was authorized to exercise specified responsibilities with respect to the SDF in January 2003 (Governor Executive Order D-66-03). These responsibilities included the collection and accounting of tribal contributions deposited into the Fund, and the collection and analysis of certified quarterly reports submitted by the tribes. The analysis of the quarterly reports was conducted, primarily through a process of document desk reviews, to ensure the mathematical accuracy of the reports and the proper application of contribution rates in the Compact to the numbers reported by the tribes. As performed by the Commission, they also included tribal field compliance audits to verify the accuracy of “net win” reporting. While Compact Section 5.3(d) explicitly contemplates that the state may initiate an audit, and if “net win” reported by the tribe is found to be understated, the state shall notify the tribe. The Commission’s administrative role was extended to include financial evaluations of tribal gaming operations as necessary to verify that tribes are accurately reporting “net win”. As a matter of policy, based on functional allocation of responsibilities, the Commission’s functions regarding the SDF might have been confined to the proper maintenance and distribution of specified portions of tribal gaming revenues, with the Bureau in its investigative capacity performing the functions that go beyond maintenance and distribution of the specified portions of the gaming revenues.

As the agency responsible for tribal compliance inspections, and on-site financial evaluations of cardrooms, the Bureau is the appropriate agency to conduct such evaluations of tribal casinos. To maximize efficiency, this function should be conducted in conjunction with the more comprehensive on-site inspections that focus on overall compliance with Minimum Internal Control Standards (MICS) and many other regulatory provisions of the Act and Compact. The Bureau could feasibly conduct financial field audits of tribal casinos to verify accurate accounting and reporting of “net win” and report that information to the Commission as needed to fulfill its role as administrator of the Fund. As discussed later, such inspections should also be performed exclusively by the Bureau.

Testing and Analysis of Gaming Devices

A key aspect of the Bureau’s compliance and enforcement role is the technical analysis of the many types of gaming-related devices offered to the public both within and outside casinos. Aside from slot machines, there are video lottery terminals, electronic bingo devices, skill stop devices, coin pushers, internet café systems, and various other devices subject to regulatory scrutiny. Such analysis is particularly important in distinguishing between Class II and Class III devices as necessary to ensure strict compliance with tribal exclusivity provisions of the compacts, and consistent enforcement of state laws.

In 2004 the Commission requested and received budgetary approval to implement and maintain its own lab for this purpose. However, the Bureau considers the operation of a lab to be more in line with its field compliance and enforcement functions, particularly since such testing and analysis should extend to all questionable gaming devices, not only those offered in tribal casinos. Such an operation requires cooperative relations and close coordination with other local, state, and federal authorities, which the Bureau has effectively established in all other aspects of its enforcement and compliance activities. This function is also consistent with the Bureau's current role in reviewing and approving all controlled games offered in cardrooms.

Tribal Compliance Inspections Relating to Gaming Devices

Beginning in 2000, the Bureau appropriately took responsibility for on-site inspections of all tribal casinos to ensure compliance with regulatory provisions of the new Tribal-State Gaming Compacts (Compact). It assumed the role of the State Gaming Agency, which under Compact section 2.18, was defined as the entities authorized to investigate, approve, and regulate gaming licenses pursuant to the Gambling Control Act. Section 7.0 of the Compact, entitled Compliance Enforcement, further outlined the scope of this function. At this time, the Bureau assumed the complete role of the State Gaming Agency under the Tribal-State Compacts because the Commission had not yet been implemented.

Then, beginning in 2004, the many new and amended Compacts ratified during Governor Schwarzenegger's administration contained new language that effectively solidified the Commission's role in tribal inspections relative to gaming devices. Under the revised Section 7.0, Approval and Testing of Gaming Devices, new sections (7.1 through 7.5) were added entitled Device Approval, Gaming Test Laboratory Selection, Independent Audits, State Gaming Agency Inspections, and Technical Standards. Further, pursuant to newly added Section 7.6, entitled State Gaming Agency Designation, these Compacts for the first time explicitly designate the Commission as the agency responsible for compliance functions. Section 7.6 states, "For purposes of Sections 7.1 to 7.5, the State Gaming Agency shall be the California Gambling Control Commission, unless the State specifies otherwise by written notice pursuant to Section 16.0." The Bureau, rather than the Commission, could prospectively perform these functions, with proper notice to the tribes.

Tribal Compliance Inspections Relating to Minimum Internal Control Standards

Historically, the National Indian Gaming Commission (NIGC) has been responsible for enforcing tribal compliance with MICS. The MICS encompass detailed minimum requirements and procedures associated with many key aspects of the gaming operations, such as security, surveillance, cash and chip handling, credit, information technology, complimentary services, accounting, internal audits, table games, gaming devices, player relations, etc. In 2007 NIGC's role in this regard shifted to the State Gaming Agency after the U.S. Court of Appeals ruled that the NIGC lacks the authority under the Indian Gaming Regulatory Act to promulgate or enforce MICS over Class III tribal gaming operations. In holding that the NIGC did not have that authority, it left a potential regulatory void that increased the importance of state inspected MICS regulations in accordance with Section 8.4 of the Tribal-State Compacts.

Commission Regulations on MICS

In 2010 the Commission, in accordance with its statutory function, implemented new regulations intended to fulfill the State Gaming Agency's new MICS enforcement role. The regulations, entitled CGCC-8, included uniform protocols for establishing and enforcing MICS among all California gaming tribes. The regulations specify that "For purposes of this Section, the Commission is designated as the State Gaming Agency. Only the Commission shall be permitted to conduct compliance inspections under this regulation until the State designates a different State Gaming Agency by providing written notice to the Tribes pursuant to section 13.0 of the Compacts. At no time shall more than one State agency serve as the State Gaming Agency under this regulation." The Bureau, rather than the Commission, could prospectively perform these functions, with proper notice to the tribes.

New Compact Language on MICS

During negotiations over CGCC-8, a new Compact was ratified that allowed the Commission to assume additional responsibility for compliance enforcement relating to MICS and other aspects of the gaming operations. The 2008 Compact with the Shingle Springs Band of Miwok Indians added Section 7.4.7 entitled Compact Compliance Review. It provides that the State Gaming Agency is authorized to conduct an annual comprehensive Compact compliance review of the Gaming Operation, Gaming Facilities, and Gaming Activities to ensure compliance with all provisions of the Amended Compact, including the MICS. The Compact also adds Section 8.7, Minimum Internal Control Standards, which specifies the Tribes' requirements for conducting audits and reporting to the State Gaming Agency, and for compliance review by the State Gaming Agency. Again, the Compact specified that the State Gaming Agency shall be the California Gambling Control Commission, unless the State provides otherwise by written notice. The Bureau, rather than the Commission, could prospectively perform these functions, with proper notice to the tribes.

As a consequence of these actions, the State's role in tribal compliance enforcement is divided between both agencies. The Bureau's role has been essentially reduced to inspections to verify the tribes' compliance with their own gaming ordinances and other limited provisions of the Compact. The Commission's role encompasses all other State compliance and enforcement functions relating to tribal gaming, including the comprehensive provisions of the MICS, financial evaluations, and gaming device operations. This arrangement has resulted in multiple tribal site visits by NIGC, the Bureau, and Commission, but with limited interagency coordination. It has also caused confusion among tribal gaming regulators and disruption to gaming operations, adding further to the dysfunction and inefficiency in the State's field enforcement activities.

Licensing Investigations

As required by statute and regulation, the Bureau conducts all background investigations of specified applicants seeking licensure in the tribal casino and cardroom industries. Following investigation, it submits a recommendation to the Commission together with a report containing all relevant findings of its investigation. Bureau representatives appear before Commissioners at meetings to respond to any questions relevant to the recommendation. In all cases in which the

Commission adopts the Bureau's recommendation to deny, restrict, or condition a license, the Bureau acts as complainant and represents the State in any related administrative proceeding. Under this arrangement, the Bureau serves in a law enforcement and prosecutorial role while the Commission serves in an adjudicatory role, as appropriate.

Contrary to the process prescribed by statute, however, the Commission has become involved in the Bureau's investigative process. As a normal practice, Commission analysts evaluate the Bureau's investigation reports and attempt to identify and resolve questions they believe Commissioners might ask. In many cases, Commission personnel independently collect material information directly from applicants or, alternatively, include the applicants in their communications with the Bureau in which they request and receive supplemental investigative information they deem necessary. Commission personnel routinely submit a separate staff report to Commissioners that basically summarizes the Bureau's findings and any other information they independently acquire. The staff report also includes a second recommendation, although it is not used as a formal basis in administrative actions.

Such involvement by Commission staff is both unnecessary and legally problematic. Too frequently, the Bureau has already considered the requested information and deemed it irrelevant, prejudicial, or unsubstantiated, and thus purposely excluded it from the investigation report. It is the Bureau's investigative findings, as contained in its report, that serve as the basis for adverse administrative action, and as complainant, the Bureau must determine on its own what information and supporting evidence is to be presented at hearing.

Besides being duplicative and therefore unnecessary, the Commission staff's direct involvement in collecting material information and disclosing it to Commissioners raises serious risk of prohibited ex parte communications that can jeopardize administrative actions. While applicants must be included in such communications to avoid such risks, inclusion unnecessarily and inappropriately alerts them to what Commission staff may perceive to be deficiencies in the investigative process or in the findings used to support the Bureau's recommendation, thus encouraging applicants to advance unwarranted and sometimes frivolous arguments attacking the investigative process or the findings, rather than respond on the merits of the issues presented. Further, information independently obtained by Commission staff may lack the trustworthiness of information relied upon by the Bureau's recommendation. Injected into the licensing process at the stage of the Commission's initial hearing, the untrustworthy information may be relied on by Commissioners to deny the license application, but would be required to be excluded in the Bureau's pleading as a basis for denial in any subsequent evidentiary hearing.

It is the Bureau's view that Commission analysts should have no significant involvement in the investigative process other than to perhaps relay any relevant questions that Commissioners intend to ask the Bureau when the matter is heard at a public meeting. The Bureau should maintain sole responsibility for developing and presenting investigative findings for the purpose of the Commission's suitability determinations and to support its recommendation in any administrative proceedings.

STRATEGIC ADVANTAGE

From an organizational and staffing perspective, the Bureau is much better suited than the Commission to perform field enforcement and auditing activities. A key difference is the qualifications of personnel. With six strategically-placed regional offices, the Bureau has teams of sworn Special Agents, Field Representatives, and Investigative Auditors with years of specialized experience and knowledge in such matters. These personnel have developed cooperative relations with gaming regulators, both at the tribal and federal levels, as well as law enforcement agencies statewide, with whom they have effectively coordinated extensive investigative and intelligence activities. Unquestionably, they are better positioned to perform the full scope of tribal compliance enforcement and auditing functions than are the Commission's general auditors and analysts housed in Sacramento.

Additionally, the Bureau is organizationally structured to more effectively coordinate the operations of compliance enforcement, auditing, and licensing components. Under the Bureau's management, the Compliance and Enforcement Section (Special Agents and Field Representatives) and its Licensing Section (Investigative Auditors and Analysts) are able to systematically share information of mutual interest and staff resources, as appropriate. Also, their functions often overlap: criminal investigations involving licensees can have significant bearing on their qualifications for renewal, while licensing investigations can prompt further criminal investigations that result in prosecutions and accusations. As a result, the Bureau's Licensing Section and Compliance Section work closely and cooperatively on licensing and regulatory matters.

CONCLUSION

The proper realignment of compliance and enforcement functions and the elimination of duplicative license-related investigative tasks, as identified above, would result in significant improvements in the overall efficiency and effectiveness of the State's regulatory efforts. The Governor's Reorganization Plan would serve to amend and clarify statutory provisions as necessary to accomplish this very goal. It also proposes other adjustments in the various aspects of the licensing process that would achieve still other efficiencies, which the Bureau fully endorses. Therefore, the Bureau fully supports the timely adoption of the Governor's Reorganization Plan as it relates to gaming regulation.

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NATURAL RESOURCES & WATER

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CLEAN TECHNOLOGIES

JOINT COMMITTEES
FAIRS, ALLOCATION &
CLASSIFICATION
LEGISLATIVE AUDIT
LEGISLATIVE BUDGET

April 24, 2012

Mr. Stuart Drown
Executive Director
Little Hoover Commission
925 L St., Suite 805
Sacramento, CA 95814

Re: Comments and Support of the Governor's Reorganization Plan No. 2 -- the Gambling Control Commission and Remote Caller Bingo

Dear Mr. Drown:

I appreciate the opportunity to provide my perspective and comments to the Little Hoover Commission regarding the Governor's Reorganization Plan No. 2 (GRP2). I support the GRP2 for the continuation of the Remote Caller Bingo Program -- regardless of which state and/or local entity ultimately regulates, oversees or administers the program.

My legislative actions are consistent with the Governor's overall message to realign state government to local governments and eliminate duplicative state functions. The remote caller bingo (RCB) statutes are duplicative both on a state and local level, and therefore I support the Governor's proposal to eliminate duplicative oversight of RCB. RCB has proven to be a successful fundraising tool in my district and is relied upon given that state resources are scarce at best. If the state removes the overly burdensome regulatory barriers, many other charities statewide would utilize the fundraising potential of RCB.

Summary of GRP2 states the following:

"The current system of gambling regulation duplicates administrative, investigative, and enforcement activities between the Gambling Commission and the Bureau of Gambling control in the Division of Law Enforcement of the Department of Justice (DOJ). While consolidating these functions in the Bureau of Gambling Control, this GRP ensures that the Gambling Commission retains its policy authority. This GRP also maintains the current arrangement of shared oversight over gambling activities between the Commission and the Attorney General."



The GRP2 amends RCB statutes, Penal Code 326.3, by requiring the California Gambling Control Commission (CGCC) and the DOJ to oversee the RCB Program. I recommend clarifying the proposed language because it is silent as to which entity will perform specific tasks. Historically, the DOJ has handled the enforcement and investigative provisions involving gambling and gaming and the GCCC has been tasked with regulatory and administrative duties. The GRP2 should specifically state which entity will perform what tasks.

Background on Remote Caller Bingo

RCB enables non-profit charities to link several traditional bingo games to a central location using video technology. However, unlike traditional bingo, linking multiple locations together enables charities to raise a lot more money for veterans, churches, and schools compared to traditional bingo. In my district, the Dixon American Legion Hall conducts RCB fundraising events that benefit organizations including: the Susan B. Komen Foundation, Boys & Girls' Club, Veterans of Foreign Wars, Salvation Army, and Dixon High School's athletic and art departments.

Existing law vests the CGCC with jurisdiction over RCB; however, the CGCC -- of its own accord -- terminated the program last May via letter¹ to the authorized charities conducting RCB stating that after June 30, 2011, "no further action on new or pending applications will be taken by the Commission." Additionally, those charities that have made the upfront investment to participate in RCB were told they must cease from conducting the game "effective June 1, 2012."

Existing state law is not only duplicative of local ordinances pertaining to RCB, but of other state reporting requirements as well. In order for a charity to conduct RCB, it is required to get a local ordinance, permit, and business license to participate prior to seeking authorization from the CGCC.

If approved, the charity is then required to apply for a state license and permit from the CGCC. The same charity must also register with the DOJ's Charitable Trust Division that regulates charities and their professional fundraisers for events such as "casino nights" to ensure charitable donations contributed by Californians are not squandered by fraud or other means.

My legislative efforts to continue RCB prior to the GCCC's self-imposed deadline of June 1, 2012, include two urgency measures: SB 340 (2010) and SB 383 (2011).

Existing law requires the CGCC to extensively regulate prospective applicant charities seeking to participate in RCB. As a result, the anticipated number of charities and its volunteers have been discouraged by the lengthy and complicated process required of them. As introduced, **SB 340 sought to:**

1. Eliminate the GCCC's regulation of RCB and shift it to local governments, as is the case with traditional bingo.

¹ http://www.cgcc.ca.gov/documents/enabling/2011/PROGRAM_TERMINATION_NOTICE_FINAL_2011-05-26.pdf

2. Retains existing law regarding the DOJ's role of enforcement and oversight of charities.

SB 340 was held in the Assembly Appropriations Committee due to fiscal concerns of the DOJ's ability to audit charities should it deem it to be necessary.

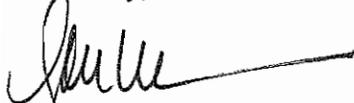
SB 383 again attempts to eliminate much of the regulatory barriers of the CGCC. This bill will make it easier for charities to participate but still maintains state and local oversight ensuring the legitimacy of the game. **SB 383 requires charities to:**

1. Register with the CGCC.
2. Self-report audit information to the CGCC.
3. Allows the CGCC to charge sufficient fees to cover registration and audits.
4. Maintain local licensure and report annually to the CGCC.

The bill is consistent with existing law in terms of the DOJ's role of enforcement and oversight of charities. SB 383 is currently pending in the Assembly Governmental Organization Committee.

Thank you for your consideration of my comments relative to RCB. I support the GRP2 for the continuation of the RCB Program with dual oversight by the CGCC and the DOJ.

Sincerely,



Lois Wolk
Senator, 5th District

LW:tda



**San Manuel Band of Mission Indians
Tribal Gaming Commission
OFFICE OF THE COMMISSION**

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April 20, 2012

Stuart Drown, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

Re: Governor's Reorganization Plan

Dear Mr. Drown:

The San Manuel Gaming Commission welcomes the opportunity to submit written testimony relative to the Governors Reorganization Plan that proposes the consolidation of certain functions between the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) as provided in the Governors Reorganization Plan No. 2 of 2012 (GRP). We enjoy a very healthy working relationship with both agencies and look forward to continuing this relationship into the future.

We believe there should be one state gambling regulatory agency, a "one stop shop" for investigations, licensing, compliance enforcement, monitoring and related functions. An Arizona or NIGC model would be more efficient and less confusing. Simply switching responsibilities from one agency to the other piecemeal is not going to reduce any real or perceived confusion among tribes, it will simply add to it under the proposed plan. However, if combining all regulatory functions in one agency is not an option, we offer the following observations.

Having reviewed the GRP and the subsequent written comments from both the Commission and the Bureau, we offer the following observations. The Bureau states, "The functional boundaries of both agencies...deviate substantially from legislative intent..." We disagree. The Gambling Control Act (the Act) does not mention "Compacts"; there were none when the Act was passed. There was in fact, little if any "Legislative Intent" on the state's role in the regulation of Indian gaming. That was and is defined in the negotiated Tribal State Compacts. The entire premise of the Bureaus' written testimony is flawed when relying on this foundation.

Since all the regulatory functions need to be executed, it really is immaterial which agency does them. However, after careful review, we find no evidence of any major cost savings in the proposed plan.

The proposals of the Bureau are as stated earlier, flawed and overly simplistic. The repeated references to the GCA are misplaced. It is problematic to have Indian gaming and non-Indian gaming under one set of rules. The Tribal State Compacts are the appropriate method of

addressing the issues related to tribal gaming and are a government-to-government agreement. The GCA refers to authority over "licensees", tribes are not licensees. The GCA is not as clear or precise as the DOJ would suggest.

Over time, the Commission and Bureau have separated their duties to the current situation where the Bureau deals primarily with card rooms and the Commission with tribal casinos. This arrangement seems to work well and changing the responsibilities of both agencies for the sake of change seems unnecessary.

More troubling is the Bureau's reference to the testing of gaming devices. Although the Commission did receive budgetary approval to establish a test lab for gaming devices, the harsh reality of the enormous amounts of money and staffing necessary to establish such a lab became obvious to the Commission and the project was not pursued. For the Bureau to claim they have the expertise to establish and operate such a lab is troubling. The state of Nevada recently announced they will no longer operate their test lab and will look to private test labs to conduct the testing of gaming devices due to the previously mentioned high cost in dollars and staffing. Further, many of the Compacts specifically assign device compliance testing to the Commission. The compacts are the product of long, detailed negotiations with the final document subject to legislative approval. To suggest a complete change in responsibilities between agencies with no evidence of improvement in processes or cost savings seems to be without merit.

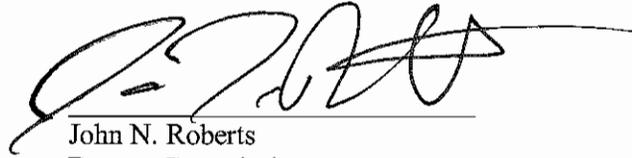
As Chairman of the Tribal State Association Technical Standards Taskforce, charged with the review and amending of CGCC 8, I had probably the most detailed knowledge of the negotiations between the tribes and the state on this regulation. During the three plus years I was Chairman, the Bureau took a very limited role in the taskforce meetings and drafting sessions. This changed towards the end when Jacob Appelsmith was appointed head of the Bureau, but the overall direction of the Bureau concerning their role under CGCCV 8 did not change materially. Rather, they seemed content to cede the role of the SGA to the Commission. Again, the Bureau wishes to transfer responsibility for compliance inspections and enforcement of the MICS from the Commission to the Bureau. Throughout their testimony, the Bureau proposes to bypass amending regulations and statutes by simply providing proper "notice" to the tribes. What may be mildly confusing now will become thoroughly confusing if the piecemeal approach to duties and responsibilities is implemented.

Unfortunately the consistent tone or theme of the bureau's submitted written comments are seemingly overly focused on "investigations" and "enforcement". This heavy handed focus will be a major setback to the positive mutually respectful relationships that have developed in recent years between the Tribes and the state agencies.

For the Bureau to make the statement that "unquestionably, they are better positioned to perform the full scope of tribal compliance enforcement and auditing functions than are the Commission's general auditors and analysts housed in Sacramento", is indeed questionable. Such a statement is at best misleading to your Commission. The fact is that the Bureau of Gambling Control has no "compliance enforcement" authority over tribal gaming operations. If there is a dispute over compliance it will be addressed through the compacted dispute resolution process.

Again, we thank you for the invitation to submit these written comments regarding the Governor's Reorganization Plan.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. N. Roberts', written over a horizontal line.

John N. Roberts
Deputy Commissioner



TULE RIVER TRIBE GAMING COMMISSION

"Protecting the assets of the tribe"

April 26, 2012

Mr. Stuart Drown, Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95814

RE: Comments to Governor's Reorganization Plan – California Gambling Control Commission (CGCC) and the Bureau of Gambling Control – Division of Law Enforcement, Department of Justice (DOJ)

Dear Mr. Drown:

The Tule River Tribe would like to take this opportunity to make some brief comments in regard to the Governor's Reorganization Plan (GRO) concerning a consolidation of the above two Departments/Entities. The Tribe would like to preface its official comments with this statement. The Tule River Tribe Gaming Commission has worked much closer, than the Tribal Government as a whole, with the CGCC and the DOJ since the Class III Gaming Compact was entered into between the State of California and the Tule River Tribe in 1999. There were some difficult situations to work thru during the initial time frame of the Tribe and the State attempting to develop a working relationship. The Tule River Tribe Gaming Commission has expressed the fact that more recently, the Tribe's Gaming Commission and the State departments/entities have developed a very professional working relationship, though not always in agreement, there has developed what the Tribe views as a mutual respect, which had been lacking in the past.

The following comments are being presented from the Tule River Tribe's perspective and are based upon the Tribe's ongoing relationship with both California State departments/entities and the experience gathered from the professional encounters.

GRP

The Tule River Tribe respects the fact that the intent of the GRP is to reduce costs and enhance the efficiency of the functions that CGCC and DOJ are supposed to fulfill. It is the Tribe's understanding that one of the paramount functions that the CGCC and DOJ are intended to carry out in their role as a part of regulating gaming is to protect the integrity of the California gaming industry. The Tule River Tribe is very aware of this concept and has developed an understanding of this as well as any government.

Licensing

As to the licensing function, the Tribe is aware that the CGCC has been responsible for the initial and renewal of licenses for the tribal key employees, tribal gaming resource suppliers and financial sources and in the past there were concerns with loss of various licensing documents that have been misplaced, but those situations have not occurred recently and the working experience of the CGCC has improved greatly. It is also the Tribe's understanding that at present once a licensing application package is completed, the CGCC staff would forward said package to the DOJ to perform an investigation. Based upon the recent performance of the licensing functions by the CGCC, it appears that its responsibilities are being completed appropriately. The transfer of information to the DOJ in regard to licensing applications and the investigation in relation to licensing applicants appears to be functioning effectively.

Compliance

There are four elements identified in the Tribal – State Compacts that require CGCC to review.

- Financial reviews of contributions to the Special Distribution Fund (SDF) or General Fund in various Compacts and or a fee per gaming device;
- CGCC conducts reviews and inspections of internal control standards, adopted by the tribal gaming agencies, as identified in the Class III gaming compacts and as referred to in the CGCC 8;
- The CGCC conducts reviews and inspections of electronic gaming devices for purposes of reviewing Tribes compliance with various terms of specific Compacts in relationship to the testing of said devices;
- The CGCC is the Administrator and Trustee of the Revenue Sharing Trust Fund (RSTF).

It is the Tribe's understanding that the GRP indicates that all auditing functions under tribal compacts shall be performed by the DOJ, which means the top three elements listed above would be transferred to the DOJ from the CGCC.

GRP Implementation and Impact Upon Tribal Regulatory Functions

The Tribe believes that there are of course additional actions that need to take place in order to insure that said implementation of the GRP is done appropriately, for instance the amendment to regulations to transfer the responsibilities appropriately, Gambling Control Act amendments and/or adjustments or amendments to sections of the Business and Professions Code that now refer to the CGCC as opposed to the DOJ. There may be additional internal issues that need to be addressed as far as transferring personnel and communicating with the Tribes.

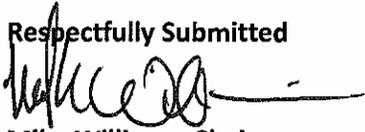
The recommendations that the Tule River Tribe have in regard to the above GRP are as follows:

- **That the Tribe be kept informed with the specifics of the consolidation process;**
- **That the transfers of personnel be submitted to the Tribe as they occur should the transfers occur in stages;**
- **That clarification of the duties and the responsibilities of each department or entity be submitted to the Tribe;**

- That perhaps this issue could be brought forward in a network meeting between the CGCC and the DOJ and the Tribes before the consolidation process is officially completed just for review and comment.

Please be advised that the Tule River Tribe has always been concerned about the fact that there was, at various times, a lack of clarification in regard to the review functions of the CGCC and DOJ and the fact that at times there appeared to be duplication of review of areas of the Compact which caused an interference into the day to day operations of the Gaming Operation and that of the day to day regulatory functions. This particular area needs to be focused upon in detail in relation to the consolidation process.

Respectfully Submitted

A handwritten signature in black ink, appearing to read "Mike Williams", with a horizontal line extending to the right.

Mike Williams, Chairman
Tule River Tribe Gaming Commission



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April 16, 2012

To: Beth Miller

RE: CGCC, Little Hoover Commission

RE: Testimony for April 24, 2012

Ms. /Mrs. Miller,

Here is a brief description of the testimony that I'll be providing on 24th. First, it is my belief that consolidation of the CGCC functions as described in the March 30th, 2012 plan submitted to the Little Hoover Commission is a good idea in that it not only allows for all the benefits associated with decreased costs for reducing duplicated efforts, but also will result in more effective regulatory efforts from the State.

The current system is duplicative:

Currently, the Department Of Justice Bureau of Gambling Control and the California Gambling Control Commission share nearly identical foundational beliefs as to why they were created and what it is that they are tasked to accomplish. This is evidenced by their; mission, vision and values statement(s). In my experience as a Tribal regulator both groups have been tasked with the similar work (counting devices). And while agents from the DOJ are the solely responsible for investigating gaming and CA PC crimes, nothing would preclude them from performing any task that a CGCC agent would perform at a Tribal casino (counting devices, MICS review, Compact compliance review). Thus, it makes good sense that the administrative, investigative and enforcement not be duplicated in two separate locations in State government.

http://www.cgcc.ca.gov/?pageID=strategic_plan

<http://oag.ca.gov/gambling>

Consolidation makes regulation promulgation more sensitive to industry needs:

Cooperation through closer contact:

Casino style gaming in CA needs regulatory cooperation between the Tribal Gaming Regulatory Agencies (TGRAs) and the State. Currently, the regulatory relationship between Tribes and the CGGC is distant. In my experience, I can say that for the last 11 years I've had no relationship with the CGCC other than; they briefly attended a regulatory conference in Blue Lake in 2006, and I've had 3 telephone conversations with CGGC representatives over the years. I have conversations with the CA DOJ BG agents at least a couple times a month, and I know all of the



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agents on a first name basis. I cannot tell you today who anyone is at the CGCC. My belief is that having the CGCC consolidated into the DOJ will bring regulatory promulgation closer to the street. By being in the DOJ the CGCC can be in closer day to day contact with TGRAs by listening to agent(s) reports, and by utilizing the DOJ's regional agent network to gather and disseminate information. This would have a real benefit in understanding the daily challenges of casino regulation and meaningful regulations could then be proposed by the CGGC. A model of this already exists Federally with the NIGC (National Indian Gaming Commission) who holds; Tribal government consultations, and forms TACs (Tribal Advisory Committees) to gather information and insight when considering rulemaking changes.

Industry challenges mandate better cooperation:

There is a silent technological revolution occurring in casino gaming. Class 3 gaming devices are being developed in smaller platforms. Data transmission linking; devices, players club servers, progressive jackpots, and players is changing. Internet gaming is now on the horizon.

California's tech companies are in an ideal position to facilitate these changes in casino gaming. Some are already participating. We have the ability in this State to lead this industry, and reap the benefits of doing so. What is needed in CA is regulatory authority that can keep pace with the current industry changes. It is the biggest challenge in gaming. My belief is that this can only happen if TGRAs and the State regulators work collaboratively. Having the CGGC in the DOJ is the first step in accomplishing that goal.

Sincerely,

Jason Ramos, D.C., TGC Chairman

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April 16, 2012

Ms. Stuart Drown
Executive Director
Little Hoover Commission
925 L Street, Suite 805
Sacramento, CA 95813

Re: Comments regarding shifting functions from California Gambling Control Commission to the Department of Justice, Bureau of Gambling Control

Dear Director Drown:

Thank for the invitation to provide my thoughts on the Governor's proposal to shift a few functions from the California Gambling Control Commission ("CGCC") to the Department of Justice's Bureau of Gambling Control ("BGC"). The comments I offer are my own and not on behalf of my past or present clients. They are based on my 25 years practicing law in California, the last ten of which have focused to a great degree on issues related to gambling and the Gambling Control Act ("GCA"). I have attached to this letter my Curriculum Vitae for you to get a sense of my background.

In your invitation you asked for my input on three specific questions:

1. Whether I support or oppose the plan?
2. What advantages and risks would need to be considered?
3. Does this reorganization plan position the state to operate more effectively and efficiently? If not, what additional action is needed?

Respectfully, the only way for me to answer these questions is to start with question No. 3 and work backwards. No one is opposed to more effective and efficient state agency operations and when two agencies are involved in regulating the same industry it makes sense to examine them to scrutinize for available efficiencies. But even before you get to that question, I think one must ask even more basic questions like "why do we have two agencies in the first place" and "what is the core competency of each agency". In other words, before proposing changes, one needs to ask "What is the problem that we want to solve?"

As an attorney who has represented card room owners, funding sources and Third Party Proposition Player Providers (“TPPP”), I have regular contact with both the CGCC and the BGC. There is a cultural difference between the BBC and CGCC. The BGC’s culture is derived from its core expertise—investigation, auditing and prosecution. The CGCC’s culture flows from its core expertise as an approval and control agency. The effective regulation of gambling requires both. These cultural differences, coupled with inadequacies in the existing structure of the GCA, create problems; problems that increase confusion and inefficiency between the agencies and for the regulated community. These problems inevitably lead to less efficiency, more bureaucratic slowdowns and interfere with the ability to protect the public’s health safety and welfare—the core goal of the GCA.

This proposed reorganization plan is not going to change the culture of either agency, nor should you try. One would hope, however, is that any reorganization would attempt to change structural problems in order to minimize the negative influence and consequence of the cultural differences that do exist.

The duties imposed on these agencies should naturally follow their respective core expertise. For example, the Bureau does and should continue to do investigations, background checks, auditing of financial transactions, and enforcement. The CGCC’s should continue to perform its statutorily mandated duties and should continue to be responsible for the receipt, review and processing of the day to day administrative matters necessary for a card room owner or third party proposition player owner to comply with the day in and day out compliance requirements of the GCA. It bears noting that not all stakeholders can afford a lawyer or a hired designated agent. It also bears noting that the GCA, while not particularly lengthy, is technical and complicated and can be a trap for the uninformed and the informed. The CGCC’s current role in, for example, sending out notification letters of applications due, reviewing applications for completeness, entering data into licensing system, and issuing registrations and/or temporary licenses when appropriate, review corporate paperwork, fits its core expertise and effectively serves the regulated community, particularly the smaller gambling establishments.

It is critical to maintain the segregation of the so-called administrative functions from the investigatory/enforcement/prosecutorial functions because requiring an applicant to obtain daily administrative approval from the enforcement agency can create awkward problems. For example, if the Bureau recommends the denial of licenses of a card room licensee, that process can drag on for several years. During the pendency of that administrative process, the licensee is still in business, still needs all sorts of administrative approvals such as game approvals, temporary work permits and contract approvals from the very agency seeking to put them out of business. It would be as if the District Attorney were, in addition to being responsible for prosecuting business crimes, also responsible for issuing the ongoing business permit necessary for a business to operate. It creates more uncertainty in the relationships necessary for the

efficient operation of the regulated businesses and casts a pall on daily decision. It would be preferable to continue to have these duties handled through the CGCC's core expertise.

Finally, let me add that while my practice does not currently involve tribal gaming and I cannot make detailed comments on the proposed change in tribal auditing functions, I would urge that this be considered carefully in light of the CGCC's existing authority and responsibility with regard to the Revenue Sharing Trust Fund and the Special Distribution Fund. Dealing with sovereign tribes is very different from dealing with a regulated industry.

With these thoughts in mind, I provide the following answer to your questions.

1. I do not support the portions of the plan that propose to shift receipt and processing of the licenses, permits and articles of incorporation approvals from the CGCC to the BGC because these functions are inconsistent with the core expertise of the BGC and thus will only exacerbate the structural problems that presently exist.
2. If CGCC core functions are shifted to the BGC, then it is critical to carefully define the full scope of those shifting functions so as to avoid confusion, inefficiency and the turf battles that occur when two agencies compete for functionality. For example, the proposal to amend Bus. & Prof. Code § 19826(a) refers to the processing of applications. What does "process" mean? The proposal to amend Bus. & Prof. Code § 19881 shifts the review of articles of incorporation to the BGC. Does this mean the CGCC still review stock purchase agreements, share transfers and relocations?

With respect to the other proposed changes, in my opinion they are not substantive and change nothing. The BGC has always done investigations and ex parte communications have always been barred during the pendency of applications.

Summarily, the proposed reorganization, while relatively minor, goes in the wrong direction. It has the potential to exacerbate the existing structural problems that beg for a more fulsome and thoughtful approach.

It would not be fair to criticize without offering an alternative. Briefly, my proposed laundry list of reform would include:

1. Maintain and/or move all administrative processing (third party proposition player registrations, game approvals, third party proposition player contract approval for example) to the CGCC. Maintain license investigations, enforcement and prosecutorial functions with the BGC.
2. Maintain review of corporate documents, purchase contracts, share transfers and relocations at the CGCC as these fall squarely within the CGCC's core expertise.

3. Move the review of local gaming ordinance amendments to CGCC.
4. Provide authority for the BGC to enter into consent decrees (pre-accusation stipulated settlements) with subsequent CGCC approval.
4. Amend the GCA to require the BGC to:
 - a. Submit all evidence supporting a license denial or other disciplinary action recommendation to the CGCC with the service of the recommendation of denial/investigatory report and at least 45 days prior to the hearing on the matter. Currently the BGC need not provide all the reasons for its recommendations and may serve its recommendation shortly before the hearing on the licensee (the current response times can be as short as 3 business days). Because there is no assurance that the BGC has provided the CGCC with all relevant information, and often inadequate time for the licensee to respond to the substance of the BGC's proposed denial as well as for the CGCC staff to review all the information in order to prepare a staff recommendation, the CGCC and/or the licensee resorts to the Administrative Hearings process at the outset before there is a vote on whether to issue or deny the license.
 - b. Require that evidence supporting a proposed denial and sought to be introduced after the initial submission supporting a proposed denial be limited to new alleged violations or to evidence that could not have been reasonably discovered prior to submission of the original denial recommendation. This would ensure due process for the licensee/applicant, reduce uncertainty as to the completeness of existing recommendation and help minimize the unnecessary referral to an administrative hearing or a re-scheduling of the matter.

Again, thank you for the opportunity to share my thoughts on this process. I will be available to answer any questions you might have.

Very truly yours,

Tracey Buck-Walsh
Law Office of Tracey Buck-Walsh