

TITLE 4.
CALIFORNIA GAMBLING CONTROL COMMISSION
CGCC-GCA-2021-05-E

FIRST SUPPLEMENT TO THE FINDING OF EMERGENCY
REGULATIONS FOR
THE IMPLEMENTATION OF THE
COMMISSION FEES MODERNIZATION PROJECT

The California Gambling Control Commission (Commission) finds the adoption of regulations on an emergency basis to reduce specified licensing fees in alignment with the costs for providing regulatory oversight and related services is necessary for the immediate preservation of the public health, safety, and general welfare and hereby submits this (first) supplement to the Finding of Emergency.

EMERGENCY FACTS –SUPPLEMENT

THE COMMISSION’S DILIGENT AND EXPEDIENT EFFORTS

The Commission has been extremely diligent in efforts to update the fees subject to this emergency rulemaking. The historical chronology of said efforts in support of this finding of emergency is as follows:

During Fiscal Year (FY) 2018-2019, at the request of the California Legislature’s Joint Legislative Audit Committee, the California State Auditor (CSA) conducted an audit on the Commission and the Department of Justice’s (DOJ) Bureau of Gambling Control (Bureau).

On May 16, 2019, the CSA released their findings and recommendations in the published report 2018-132 (Report). As outlined in the Report, the CSA made the following recommendations to both the Commission and the Bureau:

To better align the revenue in the Gambling [Control] Fund with the costs of the activities that the fund supports, the bureau and the commission should conduct cost analyses of those activities by July 2020. At a minimum, these cost analyses should include the following: The entities' personnel costs, operating costs, and any program overhead costs. Updated time estimates for their core and support activities, such as background investigations. The cost of their enforcement activities. Using this information, the bureau and commission should reset their regulatory fees to reflect their actual costs. Before conducting its fee study, the bureau should implement our recommendations to improve its processes for assigning applications, ensuring the completeness of applications, and developing time-reporting protocols.

In May 2019, the Commission began the State contracting process of soliciting bids to identify qualified vendors who specialize in cost and fee analyses. In July 2019, the Commission awarded and began working with MGT Consulting Group (MGT). Since awarding the contract, MGT, the Commission, and the Bureau have contributed significant efforts and resources toward conducting a thorough cost analysis and fee restructuring plan. The findings of such efforts are summarized in MGT’s ‘Department of Justice’s Bureau of Gambling Control and the California Gambling Control Commission Fee Study Report of Findings’ (MGT Report), which can be found on the Commission’s webpage. Once

completed, the MGT Report was submitted to the California Department of Finance (DOF) for review and approval.

On September 16, 2021, the DOF approved the MGT Report, which includes a cost analysis and fee restructuring plan. On September 17, 2021, the Commission noticed the public concerning the Commission's intent and consideration of submittal of emergency regulations to the Office of Administrative Law. The proposed text and proposed finding of emergency were provided with the meeting agenda. Following public attendance and participation and notable support voiced by industry representatives, the Commission voted to approve the submittal of the emergency regulations previously noticed. On September 17, 2021, the proposal was submitted to the Office of Administrative Law. As such, without any delay, the Commission has acted with absolute urgency to resolve this matter. The Commission understands the emergency nature of this proposal. The Commission has acted without delay to initiate the emergency rulemaking process, which has included considerable amounts of staff overtime and redirection onto this project. The Commission is also working urgently on a regular rulemaking proposal for a comprehensive Fee Modernization Package, which includes fees identified in the fee study that need to be both increased and reduced. This regular rulemaking package is scheduled to be noticed by the end of the year.

METHODOLOGY

As to the specific methodology of the fee study for the licensing fees subject to this emergency rulemaking package, MGT conducted a standard fee study using a standard approach for analyzing the cost of providing fee-related services is commonly referred to as a "bottom up" approach. This bottom-up approach incorporates personnel costs, operating costs, and any program overhead costs to determine the full cost of the services being provided on a per unit basis. First, to identify all direct staff time spent on specific fee-related activities or services, MGT conducted a series of meetings with staff from the Commission and Bureau to identify every employee, by classification, who performs work directly in support of fee-related services. Direct staff costs are incurred by employees who are "on the front line" and most visible to the industry. Once all direct staff were identified, subject matter experts for each section calculated the costs incurred to perform the associated tasks of each task type. These calculations were developed by the subject matter experts within each fee area leveraging quantitative data analyses to arrive at the averages of time taken for each task. Thereafter the direct cost of staff time for each fee was determined using productive hourly rates. "Productive hours" is defined as the time staff are in their office or in the field. The average productive hours for the State's staff providing services is 1,800 hours per year. Following the analysis of each individual license application type and determining the associated cost using the above methodology, MGT recommended that the initial and renewal applications be consolidated into one new fee called Application Fee (initial/2- year renewal), since the time to provide the service did not vary depending on whether it was an initial or renewal application. The annual cost for this new fee is \$982,332. The current average revenue is \$2,074,825 for initial applications and \$1,095,500 for renewals. MGT recommended collapsing the application fees into one fee titled "application fee (initial/2-year renewal)." This new, consolidated application fee is limited to recovering the cost of processing an application form, including the intake and initial badging workload, and therefore is much lower than the previous 27 separate application fees. All application fees are

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calculated under this calculated approach. Of the remaining fees in this category subject to this regulation, MGT found that the replacement key employee badge fee, replacement Commission work permit (WP) badge fee, and the replacement third-party (TPPPS) badge fee, all took the same amount of time to process and by extension, had the same cost recovery amount that should be charged. MGT recommended collapsing these fees into one replacement badge fee. The full cost to provide a replacement badge is \$8, which is lower than the current \$25 per replacement badge fee. As such, MGT recommended lowering the replacement badge fee to align with 100% full cost recovery. This is applicable to all fees that are subject to these regulations. More specific to these regulations, all other fees subject to these emergency regulations are fees which are decreased to only charge the 100% full cost recovery and nothing additional.

FISCAL IMPACT ESTIMATES

Other non-discretionary costs or savings imposed on local agencies; none.

COMPATABILITY STATEMENT

The Commission evaluated and determined that the proposed regulations are not inconsistent or incompatible with existing regulations or state statute.