

Members

Rep. Scott Pelath, Chairperson
Rep. Dennie Oxley
Rep. Phil Hinkle
Rep. Michael Murphy
Sen. Joseph Zakas
Sen. Michael Young
Sen. Lindel Hume
Sen. Richard Young



ADMINISTRATIVE RULES OVERSIGHT COMMITTEE

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Authority: IC 2-5-18

MEETING MINUTES¹

Meeting Date: September 19, 2007
Meeting Time: 10:30 A.M.
Meeting Place: State House, 200 W. Washington
St., Room 404
Meeting City: Indianapolis, Indiana
Meeting Number: 2

Members Present: Rep. Scott Pelath, Chairperson; Rep. Dennie Oxley; Rep. Phil Hinkle; Rep. Michael Murphy; Sen. Joseph Zakas; Sen. Michael Young; Sen. Lindel Hume.

Members Absent: Sen. Richard Young.

I. Call to Order and Discussion of the Agenda.

Rep. Scott Pelath, chairperson, called the meeting to order at approximately 10:40 a.m. Rep. Pelath noted that the committee would discuss the Indiana Gaming Commission's (Commission) Indiana riverboat construction standards and the imposition of minority ownership transfer fees. Rep. Pelath indicated that the purpose of the meeting was to understand how the Commission administered the law relating to the two issues.

II. Legislative History of Transfer Fees and Riverboat Building Standards.

¹ Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Rep. Pelath introduced Ross Hooten, staff attorney for LSA, to make a presentation concerning the legislative history of transfer fees and the building standards for riverboats. Mr. Hooten summarized a memorandum that was distributed to the committee members.²

III. Building Standards for Indiana Riverboats.

Rep. Pelath introduced Ernest Yelton, Executive Director of the Commission. Rep. Pelath indicated that he has questions regarding the timing of two riverboat expansion projects. He indicated that the projects began before the Commission passed its Guide for Alternate Certification of Continuously Moored, Self-Propelled, Riverboat Gaming Vessels (Guide). Rep. Pelath then inquired about the risk associated with beginning these expansion projects prior to the issuance of the certification standards provided in the Guide. Mr. Yelton explained the risk associated with beginning construction prior to the adoption of the Guide. He then described the riverboats' responsibility to comply with either the Coast Guard standards or the marine structural and life safety standards.

In response to a question from Rep. Murphy, Mr. Yelton described ABS Consulting's role in drafting the Guide. He also explained ABS Consulting's role in inspecting riverboats that elect to use the Guide. Mr. Yelton then described some variances ABS Consulting discovered during their inspections.

Rep. Pelath asked about ABS Consulting's relationship with the Commission. Mr. Yelton described the Commission's contractual relationship with ABS Consulting. He then described some of the requirements of the contract.

Responding to a question from Sen. Michael Young, Mr. Yelton explained why the Commission passed the Guide as standards rather than administrative rules.

Rep. Pelath inquired about the Coast Guard standards. Mr. Yelton described some of the Coast Guard standards. He explained similarities between the Coast Guard standards and the Guide. Mr. Yelton then explained the Coast Guard's indication to the Commission that they would discontinue their inspections of Indiana riverboats.

Mr. Yelton then described the economic impact that riverboats have upon a municipality.

Rep. Pelath asked about the expansion projects' economic effect on other Indiana riverboats. Mr. Yelton indicated that the expansion projects' economic impact would be minimal and suggested that the projects would not likely drain business from other Indiana riverboats and casinos. He then discussed the possibility of increased competition from gaming in surrounding states.

Rep. Murphy inquired about competition between the casinos and horse tracks that are allowed to have slot machines. Mr. Yelton discussed various opinions relating to the economic impact on the riverboats from the horse tracks.

Rep. Murphy then inquired into the necessity of riverboats to comply with certain nautical requirements established by the General Assembly. Mr. Yelton responded by noting that riverboats were previously required to provide gambling excursions.

Sen. Michael Young asked about limits on the number of slots or gaming positions. Mr. Yelton indicated there is no state law that limits the number of slots or gaming positions on

² See Exhibit A.

casinos on Lake Michigan and the Ohio River and explained that such a requirement was in the purview of the General Assembly.

In response to a question from Sen. Zakas, Mr. Yelton explained the requirements for a riverboat on the Ohio River to replicate a steam boat.

Rep. Oxley asked about the relationship between ABS Consulting and the riverboats. Pursuant to ABS Consulting's contract with the Commission, ABS Consulting is not permitted to have a direct contractual relationship with any of the riverboats.

IV. Transfer Fees.

Rep. Pelath turned the committee's attention to the issue of the Commission's emergency rules relating to the transfer of a minority ownership interest in a riverboat.³ Mr. Yelton then described the rule as well as the purpose of the rule. He explained that the rule does not prescribe a fee and is consistent with the language relating to transfer fees contained in IC 4-33-4-21.

Rep. Pelath inquired into the necessity of legislative guidance. Mr. Yelton explained the Governor's position regarding this issue and suggested that legislative input was welcome.

Sen. Hume asked for clarification regarding the language contained in the rule as compared to the statutory language relating to transfer fees contained in IC 4-33-4-21. Mr. Yelton responded by explaining that any money which may be received under this rule would be a factor the Commission would consider when deciding whether to approve the request to transfer an ownership interest. He then further described the Commission's authority to create the emergency rule.

In response to a question from Rep. Hinkle, Mr. Yelton further explained the reference to the term "consider" as used in the rule. He stated that in determining whether to approve a transfer, the Commission would take into consideration the extent to which the state shares in the economic benefit of the sale.

Rep. Oxley inquired into the application of any money received under this rule. Mr. Yelton clarified that there have not been any ownership transfers that would be subject to the rule since the emergency rule's adoption. He then introduced Philip Sicuso, General Counsel of the Commission. Mr. Sicuso discussed the language used in the rule. Rep. Oxley then asked whether any public input was taken into consideration. Mr. Sicuso explained that the rule was an emergency rule and that a permanent rule was currently in the promulgation process.

Rep. Murphy asked about future transfers that may be subject to this rule. Mr. Yelton indicated that at least one boat was intending to make a transfer which would be subject to the rule before March 2008.

Sen. Hume questioned the ability of the Commission to consistently apply the rule. He suggested that any money received by Indiana should be obtained in a uniform manner. He further suggested that the Commission should repeal the rule.

Sen. Zakas asked about the necessity of an emergency rule. Mr. Yelton noted that the

³ The Commission's Resolution 2007-56, which authorizes the emergency rule, is attached as Exhibit B.

Commission and the Horse Racing Commission have concurrent jurisdiction over the slot machine operations at the race tracks and explained the necessity to be consistent with respect to entities subject to rules of both the Commission and the Horse Racing Commission.

Rep. Murphy asked about whether there would be any cost to the Commission if the rule was withdrawn. Mr. Yelton indicated that he was not aware of any cost to the Commission.

Rep. Pelath stated that he will consider a follow up meeting as well as considering whether legislation should be suggested by the committee.

V. Adjournment.

Rep. Pelath adjourned the meeting at approximately 12:30 p.m.