

**JOINT MEETING OF THE SPECIAL SUBCOMMITTEES
OF THE HOUSE COMMITTEE ON GENERAL LAWS AND THE SENATE
COMMITTEE ON GENERAL LAWS AND TECHNOLOGY STUDYING CHARITABLE
GAMING LAWS**

September 15, 2009
Meeting Summary

The Special Subcommittees of the House Committee on General Laws and the Senate Committee on General Laws and Technology Studying Charitable Gaming Laws held a fourth joint meeting on September 15, 2009.¹ The meeting was held at the General Assembly Building in Richmond, Virginia.

Report from public hearings

The meeting began with a staff report on public hearings held on behalf of the Special Subcommittees. Three public hearings were conducted to obtain comments and suggestions from all aspects of the charitable gaming community in Virginia. The hearings averaged a little over two hours in duration. They were conducted in three regions of the state-- Northern Virginia (Annandale), Tidewater (Norfolk,) and Southwestern Virginia (Roanoke)-- to provide an opportunity for obtaining comments from a broader spectrum of Virginia residents, charitable gaming organizations, and other entities involved with charitable gaming. A combined total of 87 people attended the three public hearings. All comments were transcribed and will be a part of the study record. While organizations that conduct charitable gaming were well-represented, other sectors were not as well-represented including the charitable entities that benefit from the gaming operations and individuals who participate by playing the games.

For each hearing, upon the completion of public comment, staff established a "town hall" atmosphere to generate a more general and relaxed discussion on how charitable gaming is conducted in the state. These discussions were instrumental in developing consensus on some issues and to generate several suggestions for legislative changes. In addition, the presence of DCG staff at each hearing was extremely helpful in terms of answering specific questions regarding the agency's processes and regulatory practices and moved towards developing a dialogue with the charitable gaming community.

Summary of Consensus Comments

Over the course of the public hearings, there were several themes that appeared with some consistency and around which some consensus developed.

1. General objection to increasing the regular per-game bingo prize amount from \$100 to \$250.

Discussion:

- Smaller organizations administering smaller games will have to charge more to play

¹ House membership: Delegates Jones (chair), Albo, Abbitt, Dance, and Hull were present; Delegates Scott was absent. Senate membership: No Senators were present.

- An increase in the cost to play will result in fewer players thereby decreasing the earnings available to support charitable causes
- Difficulty in getting enough volunteer workers to provide support for the games

2. General agreement that the paperwork involved with (i) obtaining a permit and (ii) maintaining a permit is too complicated.

Discussion:

- It takes too much time to complete paperwork; smaller organizations are already pressed for time commitment from volunteers
- Forms should be revised with aim towards simplification and ease of use while still gathering pertinent information
- Forms could also be modified to serve dual purposes
- Change the reconciliation form to indicate more than just whether money is missing, but also to indicate profit and loss per session

3. General objection to increasing the number of gaming nights from two nights to four nights per week.

Discussion:

- Currently it is extremely difficult to obtain volunteers to cover two nights per week; additional nights will increase pressure on volunteer time
- Would increase the pressure on smaller organizations and organizations that do not own the building in which they conduct gaming

4. General agreement to decrease the amount of time between gaming sessions from one hour to 1/2 hour.

Discussion:

- May increase revenue by decreasing the number of players who leave between sessions
- Would assist the flow of the games
- May reduce expenses (security, lights, etc.)
- May result in easing pressure on volunteers working the games

5. General agreement to use innovation to make the games more exciting.

Discussion:

- Use of shaded paper
- Use of bingo game based on poker
- Regulatory flexibility

Summary of Legislative Suggestions

Over the course of the public hearings there were also several specific suggestions made regarding legislation or changes that would require legislative action to implement.

1. Establish the Division of Charitable Gaming as a special fund agency similar to state entities charged with regulating professions and occupations. This would allow DCG to use permit and audit fees to directly support the agency's operations and provide enhanced service and support to permit holders.
2. Review 10 percent threshold to ensure that it adequately includes all expenses related to gaming and makes appropriate allowance for the size of the operation and whether the organization owns or rents the gaming location.
3. Remove Winner-Take-All games and instead increase the number of Lucky 7-type games from one to three per night and allow each game to start at \$1,000 rather than the current \$500.
4. Allow two \$500 jackpot games rather than one \$1,000 jackpot game.

Reaction from the Division of Charitable Gaming, Department of Agriculture and Consumer Services

Mike Sheffield, member of the Charitable Gaming Board, informed the Special Subcommittees that he had received a communication indicating that, effective January 1, 2010, the Division would be merged with the Division of Consumer Protection within the Department. Betty Bowman, current Executive Director of the Division of Charitable Gaming, indicated that she would be retiring. Chairman Jones asked Mr. Sheffield if he could provide information regarding how many employees were operating with the Division when it was transferred from a Department to a Division within the Department of Agriculture and Consumer Services.

Chairman Jones asked what would be the level of expertise related to charitable gaming when the transfer would occur in January 2010. Ms. Bowman stated that charitable gaming expertise was not limited to her and that all of the staff as far as she knew would remain. She indicated that when she came to the Division in 2003, there were 35 employees. When the merger with the Department of Agriculture and Consumer Services occurred the number of employees was at 30. This number was lowered to 23 by November of 2008 and as of the date of the meeting there were 21 employees.

Public Comment

Chairman Jones then called for public comment.

Mr. Chuck Lessin, Charitable Bingo Association - Mr. Lessin stated that the groups that he represented believes that there really needs to be a Department of Charitable Gaming and that more supervision was needed rather than less to prevent misappropriation and misuse from increasing. He indicated that most of the members of his organization would adamantly oppose the merger. Mr. Lessin stated that he would be presenting a compilation of 15 points of recommendation on behalf of his organization to the Special Subcommittees at a future meeting.

Mr. Bill Tennyson, Hampton Elks Lodge - Mr. Tennyson stated that bingo gaming has significantly decreased in recent years. He asserted that the Elks are against any significant increase in the prize amounts and increasing the number of playing nights. He indicated that his organization was not concerned about the decrease in the amount of time between gaming sessions.

Mr. Kevin Carol, Legislative Chair, Fraternal Order of Police of Virginia (FOP) - Mr. Carol provided written comments containing the positions taken by the FOP relating to the regulation of charitable gaming. According to the statement, the FOP supports the re-calculation of the use-of-proceeds formula for charitable giving to be based on gross receipts minus actual expenses incurred in the operation of the bingo game. The new adjusted gross use-of-proceeds amount would exclude (i) prize money, (ii) cost of bingo paper/computers used to operate the game, (iii) security needed to keep the players safe, and iv) cost of audit fees. The FOP opposes raising the jackpot amounts above the present level and changing the allowable playing days from two to four. Finally, the FOP takes the position that the audit fee amounts to a tax and that if an audit fee is charged, then it should go directly to the support of the Division and not to the state's general fund.

Mr. Ronald Hicks, Virginia Elks - Mr. Hicks stated that no major changes should be made to the current law. He expressed concern that too many changes would move bingo to more of a gambling situation and less of a recreational activity.

David Bailey, Virginia State Firefighters Association - Mr. Bailey expressed concern on behalf of the Association that the Division was in his view being downgraded. He also stated that according to § 18.2-340.31 of the Code of Virginia, all money collected by the Division in terms of permit and audit fees should go to the Division.

Discussion of Special Subcommittees

At the conclusion of the public comment segment, the Special Subcommittees proceeded to discuss the status of the study and how it will proceed. Chairman Jones asked Ms. Bowman if the 25 current employees are able to handle the workload. Ms. Bowman stated that they struggle to keep up. Chairman Jones then asked approximately what percentage of staff time is dedicated to assisting charitable organizations meet the use-of-proceeds requirement. Ms. Bowman stated in the past the practice was to go on-site to assist the organization, but that because of staff cuts assistance has been provided via telephone. She stated that the Division has four auditors, when there used to be 10, and that they try to perform audits every three years. In addition, the Division attempts to perform inspections of every gaming site three or four times per year. Currently the Division takes in approximately \$3.2 million in fees and of that amount, \$1.7 million goes to the direct support of the agency. The remainder is deposited in the general fund.

Delegate Albo stated that there was wide agreement not to increase the number of gaming nights and the prize amount. He asserted that apparently the purpose for raising the jackpot amount was to spice up the games by bringing in more players, but that it is clear the majority of charitable organizations are not in favor of raising the amount. Delegate Albo stated that there does appear to be support for increasing the eligibility to do more Lucky 7 games and eliminating or decreasing Winner-Take-All games.

Delegate Hull indicated that he was troubled by the merger of the Division because the potential for mischief in the gaming industry was very high. Delegate Abbitt stated that the statutory provision allowing electronic pull tabs needs to be repealed because such games were in effect slot machines. Delegate Dance added that she agreed with what Delegate Albo and Delegate Abbitt were saying, but that the merger needed to be looked at in the broader context of what the state is trying to do to save money in the face of the financial problems that are being experienced.

Delegate Albo then stated that in terms of use-of-proceeds an above-line deduction system may be considered. Moving to such a system, however would be difficult and that the devil would be in the details in dealing with such issues as determining what is “reasonable” in terms of rent or security. Chairman Jones stated that another issue involved whether the 10 percent use-of-proceeds should be relaxed. He stated that he tends to think that the 10 percent figure is a good number and that it should not be reduced.

Delegate Hull asserted that if you go to an off-the-top deduction for security, for example, then all charitable organizations will move to have security. He also stated that charitable organizations are tax exempt and required to have their returns audited by a Certified Public Accountant (CPA). If the CPA audit includes a review or verification of expenses related to the gaming enterprise, then perhaps that information may be used by the Division to validate expenses. Delegate Albo added that the above-line deduction systems would require more review by staff and that may not be possible with the current staff level.

Chairman Jones then stated that the process for the Special Subcommittees would be to have staff assemble all suggestion that have been received and disseminate them to the members at least one week before the next meeting. Any organization or group that wants to have a suggestion considered would need to send them to staff to be included in the document that will be sent to the members prior to the next meeting. The members will be polled for the next meeting.

The Honorable S. Chris Jones, Chair
Maria J.K. Everett, Senior Staff Attorney