



Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission

May 21, 2024, at 10:00 a.m.

General Assembly Building, Senate Room A

<https://studies.virginiageneralassembly.gov/studies/667>

The Joint Subcommittee to Study the Feasibility of Establishing the Virginia Gaming Commission (the Joint Subcommittee) met in Richmond with Senator Bryce E. Reeves, chair, presiding.¹ The meeting began with the election of chair and vice-chair, followed by presentations and discussion. Senator Reeves was elected as chair and Delegate Paul E. Krizek was elected as vice-chair. Materials presented at the meeting are accessible through the [*Joint Subcommittee's meetings webpage*](#).

Adoption of Virtual Meeting Policy

Ashley Binns, Senior Attorney with the Division of Legislative Services (DLS) and staff for the Joint Subcommittee, provided an overview of [*§ 2.2-3708.3*](#) of the Virginia Freedom of Information Act (FOIA) in the Code of Virginia and explained the options available to the Joint Subcommittee with respect to the adoption of a virtual meeting policy. The Joint Subcommittee unanimously voted to adopt a virtual meeting policy that encompasses all of the allowable provisions under FOIA.

Overview of HJR 10 (Krizek, 2024 Regular) and SJR 12 (Reeves, 2024 Regular)

Ms. Binns provided an overview of HJR 10 (Krizek, 2024 Regular) and SJR 12 (Reeves, 2024 Regular), which continue the Joint Subcommittee from the previous HJR 548 (Krizek, 2023 Regular), directing the Joint Subcommittee to "analyze and make recommendations, as appropriate, with respect to (i) the feasibility of establishing a new agency in the executive branch of state government, to be known as the Virginia Gaming Commission (the Commission), under which all legal forms of gaming in the Commonwealth, except the state lottery established and operated pursuant to the Virginia Lottery Law (§ 58.1-4000 et seq.), shall be consolidated for the purposes of regulation and oversight; (ii) the timely and orderly transition of the regulatory authority over casino gaming and sports betting, charitable gaming, and pari-mutuel wagering on horse racing from the Virginia Lottery, the Virginia Department of Agriculture and Consumer Services (VDACS), and the Virginia Racing Commission (VRC), respectively, to the Commission; and (iii) ways to effectively prioritize problem gambling prevention and treatment efforts. The [J]oint [S]ubcommittee may take into consideration gaming oversight models used by other states and shall consider the feasibility, costs, and benefits of creating the Commission."

Delegate Krizek spoke briefly regarding the importance of the work the Joint Subcommittee is doing on behalf of the Commonwealth, highlighting the expansion of various forms of gaming

¹ **Members Present:** Senator Bryce E. Reeves (chair), Delegate Paul E. Krizek (vice-chair), Senator Adam P. Ebbin, Senator Jeremy S. McPike, Delegate Terry L. Austin, Delegate David L. Bulova

Members Absent: Senator Todd E. Pillion, Delegate Luke E. Torian

that have proliferated in the Commonwealth over the past years as well as the importance of educating the public, regulating the industry, and providing support services to problem gamblers.

Senator Reeves spoke briefly about working with Guidehouse, the Joint Subcommittee's consultants, and the important role they have played in the work of the Joint Subcommittee.

Presentation: Update on Virginia Gaming Commission Study

Colin Hood, Director, Guidehouse

Mr. Hood, Director at Guidehouse in the State and Local Government Practice, provided an update to the Joint Subcommittee on the work Guidehouse has done on behalf of the Joint Subcommittee and the next steps Guidehouse plans to take. Guidehouse began by researching and benchmarking to understand how comparable states are structuring their gaming regulatory and oversight models. Next, Guidehouse is beginning a cost-benefit analysis of potential operating models for gaming regulation and oversight in Virginia, the results of which will be provided at the next meeting. After the cost-benefit analysis is conducted, Guidehouse will also provide the Joint Subcommittee with recommendations for possible regulatory and oversight structure options for legal gaming in Virginia. Lastly, Guidehouse will provide an implementation roadmap based on the recommendation selected, which will serve as a transition plan to get Virginia from its current state to the recommended state of legal gaming in the Commonwealth. Mr. Hood anticipated that these deliverables would be provided to the Joint Subcommittee throughout the summer.

Mr. Hood provided a snapshot of the current gaming landscape in Virginia, which included an overview of gaming regulation and oversight as well as the revenue generated from legal gaming in Virginia; three agencies manage all forms of gaming with about 160 staff, which includes a large number of vacancies. Mr. Hood discussed consolidation considerations and the relative benefits and costs of having a decentralized versus centralized gaming model in the Commonwealth. Mr. Hood also provided a list of options based on the scale of consolidation and reviewed how each option relates to a peer state with a similar model.

Delegate David L. Bulova asked how many of the peer states purposefully placed each division under the gaming commission model, versus having a commission that formed organically. Mr. Hood replied that Guidehouse would provide an answer to this question in its forthcoming benchmarking report. Delegate Krizek asked if Guidehouse only looked at peer states; Mr. Hood responded that 48 states have been surveyed, and the results were narrowed down to seven peer states.

Presentation: Impact of Unregulated Gaming

Matthew R. Hortenstine, General Counsel, J&J Ventures Gaming, LLC

Mr. Hortenstine presented on the importance of having a regulated gaming market in the Commonwealth regarding skill games and games of chance. He highlighted the specific definitions for the two types of games while explaining the difference between the mathematical algorithms of the two games. He also cited the importance of transparency to provide the consumer with information regarding skill games and games of chance.

Delegate Krizek asked Mr. Hortenstine to provide other benefits of having a central gaming control system. Mr. Hortenstine responded with three key elements: (i) the ability to create an



electronic footprint so the Commonwealth can ensure that it is receiving all tax dollars it is supposed to receive from gaming, (ii) the inability to manipulate the game, and (iii) the ability to obtain retailer knowledge of the portion of tax dollars the state is supposed to receive from gaming in Virginia.

Delegate Krizek followed up with a question about checking identification of players in relation to age or those persons on the self-exclusion list; Mr. Hortenstine explained that there are multiple options to regulate player identification, including a card swipe to activate the machine, separate gaming rooms with controlled entry, and surveillance systems with facial recognition software to remove unverified individuals. Delegate Krizek asked if there was any way to implement those models and safeguards without a central control system; Mr. Hortenstine opined that it is possible, but it would be very difficult to police. Delegate Bulova asked if the states that have a centralized system are able to handle all the different systems in a streamlined fashion or if there are duplicative systems; Mr. Hortenstine was unaware of any single system that covered all areas.

Mr. Hortenstine expressed that no matter which devices are chosen, proper regulatory structure is key to protecting the public as it mitigates predatory conduct and keeps "bad actors" out of the gaming space.

Senator Reeves pointed out the difference between a gaming operator, distributor, and manufacturer and asked which other states have a regulatory authority on distributors and manufacturers; Mr. Hortenstine responded that there is a two-tier and a three-tier concept, with the three-tier concept being the one Virginia should consider. With the three-tier concept, there is a licensed manufacturer who sells the game into the system to the licensed terminal operator who owns, operates, and manages those games and is responsible for taxes and machine management. In turn, the operator places machines at the licensed retailer, who has no economic input into the system. This tiered approach allows whatever entity regulates the games to provide the licenses, permits, etc., and allows such entity to have the inspector regulate the games and provide sanctions to the appropriate level.

Mr. Hortenstine ended his presentation with data showing the estimated state gaming tax revenue lost due to having an unregulated market.

Next Meeting

The next meeting of the Joint Subcommittee is set for June 17, 2024, at 2:00 p.m. in Senate Room A.



For more information, see the [*Joint Subcommittee's website*](#) or contact the Division of Legislative Services staff:

Ashley Binns, Senior Attorney, DLS
abinns@dls.virginia.gov
804-698-1812

Stephen Kindermann, Senior Attorney, DLS
skindermann@dls.virginia.gov
804-698-1880

Troy Hatcher, Staff Attorney, DLS
thatcher@dls.virginia.gov
804-698-1829

