



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: William Cox, Ohio Casino Control Commission

FROM: Joseph Baker, Regulatory Policy Advocate

DATE: April 23, 2021

RE: **CSI Review – OCCC 2021 5YR Batch 1 (OAC 3772-1-01, 3772-1-04, 3772-1-07, 3772-2-06, 3772-4-01, 3772-4-02, 3772-4-03, 3772-4-04, 3772-4-05, 3772-4-06, 3772-4-07, 3772-4-08, 3772-4-09, 3772-4-11, and 3772-10-04)**

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Commission as provided for in ORC 107.54.

Analysis

This rule package consists of seven amended rules, eight rescinded rules, and four new rules proposed by the Ohio Casino Control Commission (Commission). This rule package was submitted to the CSI Office on March 17, 2021, and the public comment period was held open through March 31, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on March 17, 2021.

The rules in this package govern various processes of the Commission.

OAC 3772-2-1-01 establishes definitions relevant to the chapter and has been amended to clarify terminology and provide greater clarity for stakeholders, according to the BIA. OAC 3772-1-04 outlines the process for obtaining a waiver or variance to rules established by the Commission and has been amended to explicitly permit the Commission to delegate authority to the executive director in evaluating such waiver or variance requests. The rule additionally states that any denial of a waiver or variance request does not necessitate a hearing or formal notice.

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OAC 3772-1-07 describes the records retention requirements for casino operators, holding companies, and gaming-related vendors, and has been amended for clarity. OAC 3772-2-06 outlines the Commission's authority to issue subpoenas and the possible consequences for applicants or licensees that fail to comply. The rule has been amended to permit the Commission additional discretion to discipline such individuals in a manner other than suspension or revocation of a license. OAC 3772-4-01 delineates the process for applying for a casino operator, management, company, and holding company license, and has been amended to remove outdated handwriting requirements, to require the applicant to sign and accept all conditions of licensure set forth by the Commission, to specify that a license expires three years after licensure, to permit the Commission to take administrative actions other than denial and revocation of a license in response to an untruthful or incomplete application, and to require renewal applications to be filed at least 180 days prior to the expiration of the license.

OAC 3772-4-02 defines the information that applicants must provide to the Commission to substantiate their eligibility and capability for a license. According to the BIA, the rule has been amended to remove redundancies and improve readability. The rule has also been amended to incorporate the substance of current OAC 3772-4-03 (requiring applicants to provide a facility plan to the Commission) and OAC 3772-4-04 (requiring applicants to provide a responsible gaming plan) and other forms required by the Commission, which are rescinded in this rule package. OAC 3772-4-03 is a new rule proposed by the Commission, which is renumbered from OAC 3772-4-06. The rule has been updated for readability and to require that all relevant fees be paid by electronic funds transfer, unless otherwise permitted by the executive director of the Commission. OAC 3772-4-04 is also a new rule proposed by the Commission, which is renumbered from OAC 3772-4-07. The rule specifies the license fees for casino operators, management companies, and holding companies, and has been amended to require that payment for license fees be submitted via electronic funds transfer unless otherwise permitted by the executive director of the Commission.

The current version of OAC 3772-4-05 has been rescinded in its entirety, as the BIA states that several of the provisions contained in the rule were redundant and overlapped with OAC 3772-4-01. Non-redundant provisions were incorporated into the suggested changes to OAC 3772-4-01. The new version of OAC 3772-4-05 is a renumbering of OAC 3772-4-08, which outlines the affirmative requirements that casino operators, management companies, or holding companies must establish to be licensed. Additionally, the rule sets forth requirements for the Commission to evaluate the business experience of the applicant, such as its financial stability, integrity, and responsibility. According to the BIA, the rule has been updated to improve readability and to bring the language into harmony with current Commission practice.

The current version of OAC 3772-4-06 has been rescinded, and the provisions contained in the rule have been moved to the updated version of OAC 3772-4-03. The new version of OAC 3772-4-06 represents a renumbering of current OAC 3772-4-09 and requires casino operators, management companies, and holding companies to submit various information to the Commission as applicable, including name changes, bankruptcies, arrests, charges or convictions, and any other information that would affect the ability of the casino operator, management company, or holding company to suitably obtain and maintain a license. OAC 3772-4-07, OAC 3772-4-08, OAC 3772-4-09, and OAC 3772-4-11 have been rescinded in their entirety as they have been incorporated elsewhere in the rule package. Lastly, OAC 3772-10-04 describes a casino operator's responsibility to maintain an internal control system for maintaining complete, accurate and legible records of casino transactions. The rule has been amended to incorporate the provisions previously contained in OAC 3772-4-11, requiring casino operators to file a return and pay all taxes no later than noon on each day that banks are open for business and to provide financial information as requested by the commissioner of the Ohio Department of Taxation.

During early stakeholder outreach, the Commission sent the proposed rules to individuals associated with Jack Entertainment, Konami Gaming, Genesis Gaming, Galaxy Gaming, Penn National Gaming, Play AGS, International Game Technology, Aristocrat, Hard Rock Casino Cincinnati, GameCo, and others. In addition, the Commission invited stakeholders to comment during the Commission's public meeting on March 17, 2020. No early stakeholder comments were provided. No comments were received during the CSI public comment period.

According to the BIA, the business community impacted by the rules includes casino operators, management companies and holding companies, as well as gaming-related vendors and independent testing laboratories. The adverse impacts to business include administrative effort necessary to comply with records retention and maintenance requirements, to produce documents associated with subpoenas issued by the Commission, to comply with application instructions for licensing and to provide related information to the Commission, to develop and submit a facility plan to the Commission, to provide evidence of meeting the affirmative standards for licensure as required by the Commission, to update the Commission regarding changes in contact information or criminal records, to maintain an internal control system for tracking casino transactions, and to provide financial information as requested by the Ohio Department of Taxation. In addition, the rules specify an initial licensure fee of \$50,000,000 and an application fee of \$1,500,000 for new applicants seeking to be licensed as casino operators, management companies, or holding companies (as set forth in ORC 3772.17). The renewal fee for these licenses is set by the Commission in rule at \$500,000. The Commission states in the BIA that the adverse impacts to business are necessary to comply with the Ohio Constitution and the Revised Code and to protect the public welfare from fraud and abuse associated with unregulated gaming.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Casino Control Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.