



The Senate

TWENTY-FIRST NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
P.O. BOX 500129
SAIPAN, MP 96950

STANDING COMMITTEE REPORT NO. **21-85**

Date: February 25, 2020

RE: House Bill No. 21-11, HS1

S-Adopted 3/13/20 [Signature]

Honorable Victor B. Hocog
President of the Senate
Twenty-First Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President:

Your Committee on Cannabis and Gaming, to which was referred House Bill No. 21-11, HS1, entitled:

To clarify the powers of the Commonwealth Casino Commission and to make needed changes to the Commonwealth Code given the unique regulatory oversight of the Casino Industry in the Commonwealth; and for other purposes.

begs leave to report as follows:

I. RECOMMENDATION:

Pursuant to considerable discussion and deliberation, your Committee recommends the passage of House Bill No. 21-11, HS1 in the form of Senate Draft 1.

II. ANALYSIS:

A) Purpose:

The purpose of House Bill No. 21-11, HS1 is to grant the Commonwealth Casino Commission with the appropriate authority as an autonomous agency to effectively and efficiently regulate the casino industry.

B) Committee Findings:

Your Committee finds that the Commonwealth's casino industry was established pursuant to Public Law No. 18-56. Section 7 of Public Law No. 18-56 establishes the Commonwealth Casino Commission (CCC) which is charged with the regulation of the casino industry pursuant to Commonwealth law. Public Law No. 18-56 also granted the Commonwealth Lottery Commission (CLC) the authority to grant the exclusive casino license; to deny or approve license applications; to negotiate the terms of the license before issuance; to investigate to modify conditions as needed to assure compliance with Commonwealth casino law; and to investigate applicants and certain shareholders prior to issuance of a license.

Your Committee further finds that Public Law 18-56 was amended in the 19th Commonwealth Legislature by Public Law No. 19-24, which created the annual Casino License Fee to fund the activities of the Commonwealth Casino Commission. With adequate resources for enforcement now in place, the 20th Legislature introduced House Bill No. 20-82, HD1, SD1 to provide the CCC with the appropriate authority as an autonomous agency to effectively and efficiently conduct their operations. The latter legislation was not enacted into law.

Your Committee further finds that House Bill No. 21-11, HS1 is the latest iteration of House Bill No. 20-82, HD1, SD1. The current version of this bill aims to empower the Commonwealth Casino Commission to regulate the casino industry by including provisions pertaining to employment, security measures, confidential documents, and oversight over the licensing of new casinos in the Commonwealth. Notably, House Bill No. 21-11, HS1 proposes to give the CCC authority to issue a casino license to a casino licensee and gives the CCC expenditure authority over the Commonwealth Casino Application Fee Special Fund (CCAF Special Fund) from the CLC to the CCC. Unlike its predecessor, however, House Bill No. 21-11, HS1 eliminates broad language that may be construed as to limiting other Commonwealth agencies' regulatory authority.

Your Committee convened on the following dates to deliberate on House Bill No. 21-11, HS1 and review the relevant oral and written comments:

- Monday, January 27, 2020 – Senate Chamber, Honorable Jesus P. Mafnas Memorial Building, Capitol Hill, Saipan
- Thursday, February 13, 2020 – Rota Mayor's Office Conference Room, Songsong, Rota
- Tuesday, February 25, 2020 – Tinian Court House, San Jose, Tinian

Your Committee received a comment in support of House Bill No. 21-11, HS1 from the Commonwealth Casino Commission. However, your Committee also referenced the Office of the Attorney General's (OAG) feedback to the House Standing Committee on Gaming

during its evaluation of House Bill No. 21-11, HS1¹. The OAG expressed its concurrence with the provisions of the bill concerning confidentiality of certain CCC documents: “Secrecy is necessary for security, effective law enforcement, and the frustration of organized crime... Allowing gamblers to learn the precise safeguards through an OGA request would render them useless”. Nevertheless, the OAG implores the Legislature to educate the public on the need for confidentiality in the regulation of our casino industry.

Your Committee also inserted amendments to House Bill No. 21-11, HS1 to provide much-needed checks and balances on the autonomy of the CCC. In particular, Section 4 was amended to make the Commonwealth Casino Application Fee Special Fund subject to legislative appropriation, and Section 8 was amended to subject the appointment and confirmation of new Commission members to the advice and consent of the Commonwealth Senate. Your Committee agrees that these amendments will augment transparency in casino regulation without jeopardizing the security of the casino licensee. Accordingly, your Committee recommends passage of House Bill No. 21-11, HS1 in the form of Senate Draft 1.

C) Legislative History:

Representative Lorenzo I. Deleon Guerrero introduced House Bill No. 21-11 on February 8, 2019 and was subsequently referred to the House Standing Committee on Gaming for disposition. The House Committee adopted the proposed legislation in the form of House Substitute 1 and reported its findings to the full body of the House as Standing Committee Report No. 21-40.

The House of Representatives passed House Bill No. 21-11 in the form of House Substitute 1 on December 10, 2019. House Bill No. 21-11, HS1 was subsequently referred to the Senate Standing Committee on Cannabis and Gaming for disposition.

D) Public Hearing and Comment:

No public hearing was conducted for House Bill No. 21-11, HS1. However, your Committee convened on the following dates to receive public comments, deliberate on House Bill No. 21-11, HS1, and review the relevant oral and written comments:

- Monday, January 27, 2020 – Senate Chamber, Honorable Jesus P. Mafnas Memorial Building, Capitol Hill, Saipan
- Thursday, February 13, 2020 – Rota Mayor’s Office Conference Room, Songsong, Rota
- Tuesday, February 25, 2020 – Tinian Court House, San Jose, Tinian

¹ See AG’s comment (OAGHB: 2019-17) in House Standing Committee Report No. 21-40

Your Committee received written Comments submitted by the following:

- a. Commonwealth Casino Commission (*letter dated January 10, 2020*)

E) Estimated Fiscal Cost:

The enactment of House Bill No. 21-11, HS1 will result in minimal additional costs to the Legislature related to its oversight over the Commonwealth Casino Commission. Otherwise, the implementation of House Bill No. 21-11, HS1 will result in additional costs to the CCC. However, it is necessary to incur these fiscal costs to protect the Commonwealth from the much-higher social costs associated with a poorly regulated casino industry.

F) Summary of Committee Amendments:

Your Committee agreed to incorporate the following technical grammar and typographical amendments to ensure that House Bill No. 21-11, HS1 is consistent with existing statute:

- **AMENDED various sections of House Bill No. 21-11, HS1 by inserting current statutory language omitted by House amendments in the language of the bill. See italicized text.**

Section 5

- **§2309(f) on p. 5, lines 8-12:**

“...shall maintain records *and account for the expenditures made from the CCAF and the CCRF Fund over both the Commonwealth Casino Application Fund (for future license application fees) and CCRF Fund and submit reports to the Governor and the presiding officer of the Legislature*”.

Section 10

- **§2314(d) on p. 11, line 21 to p. 12, line 4:**

“...audit all papers, books and records of the casino operator, *the casino licensee, or any vendor licensee, service provider licensee, or junket licensee* on its premises or elsewhere as is practical, including inspecting the gross income produced by the *casino operators, gaming licensee's* business and verification of their income...”

- **§2314(h) on p. 12, lines 14-20:**

“(h) The Commission shall ~~not~~ have the authority to issue a license to a casino licensee. *The power to issue such sole casino operator license lies with the*

~~Commonwealth Lottery Commission.~~ The license shall not be suspended or revoked absent finding of clear and convincing evidence during a hearing pursuant to 1 CMC § 9101 et seq. by unanimous vote of the Commonwealth Casino Commission. ~~The statute of limitation shall prohibit filing of violations decided within six months of the alleged incident or action.~~

➤ **§2314(i)(1) on p. 13, line 6:**

“...finances, earnings, taxes, or revenue of any applicant or licensee...”

➤ **§2314(i)(1) on p. 13, lines 10-12:**

“...jurisdiction, or to the Office of the Public Auditor upon request, or to the Attorney General upon request, or to a law enforcement agency of the United States Government upon request, or...”

➤ **§2314(i)(2) on p. 13, line 20 to p. 14, line 1:**

“...jurisdiction or to the Office of the Public Auditor upon request, or to the Attorney General upon request, or to a law enforcement agency of the United States Government upon request, or...”

➤ **§2314(i)(2) on p. 14, lines 4-9:**

“~~(3) Notice of the contents of any information or data released, except to a duly authorized law enforcement agency pursuant to paragraph (1) or (2) of this subsection, shall be given to any applicant or licensee in a manner prescribed by the rules and regulations adopted by the Commission. (4)(3)...~~”

➤ **§2314(n) on p. 17, line 21:**

“...examine...”

➤ **§2314(aa)-(dd) on p. 23, lines 1-16:**

“(aa) The Commission shall cause to be made and kept a record of all proceedings at regular and special meetings of the Commission. These records are open for public inspection, copying, and disclosure.

(bb) The Commission shall maintain a file of applications for licenses under this chapter, together with a record of all actions taken with respect to those applications. The file and record are open for public inspection, photocopying, and disclosure.

(cc) The Commission shall maintain an alphabetical listing of all vendors doing business with the casino licensee, which shall include but not be limited to each vendor's name, registration or license number, mailing address, telephone

number, authorized representative, and nature of services. The listing shall be open to public inspection, shall be updated regularly and at a minimum on a monthly basis, and shall be posted online at the Commission's official website. (dd) The Commission may maintain such other files and records as they may deem desirable, and make these available for public inspection."

Section 32

➤ **P. 54, lines 8-17:**

"(d) "Casino gross gaming revenue" means the total sums actually received from casino gaming activities, including, but not limited to, cash, credit card payments received and checks or markers of any kind received, whether collected or not, less the total amount paid out as winnings, provided that any sum, payment, check or marker of any kind (whether collected or not) received in payment for credit extended by a casino or operator for purposes of casino gaming activities or for the issue of a chip or chips for casino gaming activities shall be included as a sum actually received from gaming, and provided further that no allowance shall be permitted for any bad debt, fee, credit card fee, rebate, incentive program, or any other discount;"

- **AMENDED Sections 15 and 16 to avoid the use of assigned section numbers in the Commonwealth Code and INSERTED an appropriate heading for Section 16.**
- **INSERTED a new Section 19 to renumber 4 CMC §2331-2334 to 2351-2354 to avoid the use of assigned section numbers in the Commonwealth Code and RENUMBERED the affected sections accordingly.**
- **AMENDED Section 27 to add a new Article and heading for Section 51564 as the current language would place Section 51564 under provisions in the statute that are unrelated to casino gaming.**

In addition to the above and other non-substantive technical amendments, your Committee agreed to the following amendments to House Bill No. 21-11, HS1 as follows:

- **AMENDED Section 4 on p. 3 to make the Commonwealth Casino Application Fee Special Fund subject to legislative appropriation, to read:**
"...The nonrefundable application fees shall be deposited in the CCAF Special Fund and expended by the Commonwealth Casino Commission, subject to ~~without~~ appropriation, for the investigation of license applicants pursuant to 4 CMC § 2318 and any other costs associated with reviewing the applications, granting or denying

applications for the exclusive license. The expenditure authority for the Commonwealth Casino Commission shall be the Chairman of the Commonwealth Casino Commission. Any funds remaining in the CCAF Special Fund after the issuance of the exclusive license and payment of all encumbered expenses related to reviewing the application and granting or denying the application for the exclusive license, including travel or meeting cost, shall be transferred to the Commonwealth Casino Commission Regulatory Fee Fund as established by 4 CMC § 2309 (f) for disposition subject to appropriation without further appropriation or fiscal year limitation.

- **AMENDED Section 5 on p. 5, lines 6-7 to be consistent with your Committee's amendments to Section 4, to read:**

"The CCCRF Funds are earmarked for the Commission's use in regulating the casino licensee and the casino industry and are ~~not~~ subject to further appropriation in the annual appropriations and are available without fiscal year limitation."

- **AMENDED Section 8 by inserting amendments to subsection (b) to change the appointment and confirmation of Commonwealth Casino Commissioners and renumbered the Section accordingly, to read:**

"(1) The governor shall appoint all five commissioners subject to the advice and consent of the Senate. The governor shall appoint one commissioner from the First Senatorial District, one commissioner from the Second Senatorial District, and three commissioners from the Third Senatorial District. This section shall apply to all commissioners appointed after the effective date of this act. ~~from the Third Senatorial District three members to the Commission, subject to the advice and consent of the Saipan and Northern Islands Legislative Delegation.~~

(2) ~~The Mayor of Rota shall appoint from the First Senatorial District one member to the Commission, subject to the advice and consent of the Rota Legislative Delegation.~~

(3) ~~The Mayor of Tinian and Aguiguan shall appoint from the Second Senatorial District one member to the Commission, subject to the advice and consent of the Tinian and Aguiguan Legislative Delegation.~~

- **AMENDED Section 8 on p. 8, lines 13-14 to clarify that no member of the Commonwealth Casino Commission shall serve more than one term, to read:**

(4) Any vacancy shall be filled by the governor appointing a qualified person for the unexpired term thereof or for a new six year term, ~~in the same manner as the original appointment and for the unexpired term thereof.~~ No member shall serve more than one ~~two consecutive~~ terms.

- **INSERTED language on p. 21, line 5 lines 13-14 to clarify bonding and assurance requirements of the Commonwealth Casino Commission:**
“(t) The Commission shall have the authority to require performance and completion bonds in any amount agreeable to the Commission or any other means of assurance in lieu of a “bond” acceptable to the Commission that the project will be timely and fully completed...”
- **DELETED Section 31 on p. 54, lines 1-5 to remove language identical to the provisions of House Bill No. 21-62, which will be acted on in the Senate Fiscal Affairs Committee.**

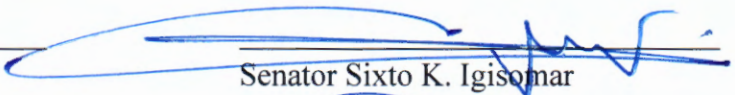
III. CONCLUSION:

Your Committee agrees with the intent of the legislation with the amendments made by your Committee and recommends the passage of the proposed legislation in the form of House Bill No. 21-11, HS1, Senate Draft 1.

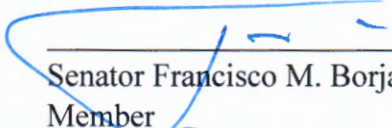
Respectfully submitted,



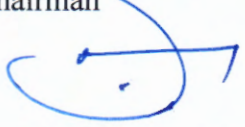
Senator Vinnie F. Sablan
Chairman



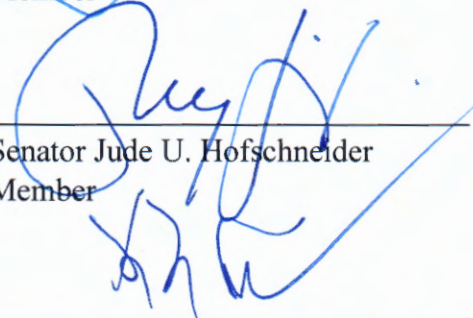
Senator Sixto K. Igisomar
Vice Chairman



Senator Francisco M. Borja
Member



Senator Francisco Q. Cruz
Member

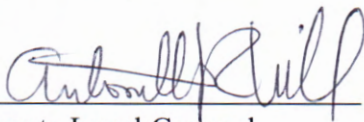


Senator Jude U. Hofschneider
Member

Senator Justo S. Quitugua
Member

Senator Teresita A. Santos
Member

Reviewed by:


Senate Legal Counsel

Attachments:

- *Written comments*
 - a. *Commonwealth Casino Commission (letter dated January 10, 2020)*



COMMONWEALTH CASINO COMMISSION

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January 10, 2020

Juan M. Sablan, Chairman
Joseph C. Reyes, Vice Chairman
Ramon M. Dela Cruz, Secretary
Alvaro A. Santos, Treasurer
Diego M. Songao, Public Affairs

The Hon. Vinnie F. Sablan, Chairman
Senate Standing Committee on Cannabis & Gaming
Senate
21st Northern Marianas Commonwealth Legislature
P.O. Box 500596
Saipan, MP 96950

Re: *Comments on House Bill Number 21-11, House Substitute 1*

Dear Chairman Sablan:

Greetings from the Commonwealth Casino Commission ("Commission")!

The Commission is providing Senate Standing Committee on Cannabis & Gaming with the Commission's comments on House Bill Number ("HB#") 21-11, House Substitute ("HS") 1: *To clarify the powers of the Commonwealth Casino Commission and to make needed changes to the Commonwealth Code given the unique regulatory oversight of the Casino Industry in the Commonwealth; and for other purposes*, pursuant to your January 7, 2020 request for comments.

The Commission is grateful for the opportunity to comment and at this time would like to express its full support of HB#21-11, HS1. The Commission respectfully requests your Committee's assistance in recommending its expedited passage to the full Senate.

The Commission has been in full support of the provisions of this bill since they were first introduced in HB#20-82 in the 20th Legislature and the Commission still fully supports these much-needed amendments that are now in HB#21-11, HS1.

In closing, thank you for giving the Commission an opportunity to comment on HB#21-11, HS1. If you need additional information, please feel free to contact the Commission at your convenience.

Sincerely,


Joseph C. Reyes
Acting Chairman


Charlie O. Atalig
Acting Executive Director

cc: Hon. Ralph DLG. Torres, Governor, CNMI Office of the Governor
Hon. Victor B. Hocog, Senate President, Senate