



STATE OF ARKANSAS
ATTORNEY GENERAL
LESLIE RUTLEDGE

Opinion No. 2016-058

June 1, 2016

Cal McCastlain, Esq.
Dover Dixon Home PLLC
425 W. Capitol Avenue, Suite 3700
Little Rock, AR 72201-9151

Dear Mr. McCastlain:

I am writing in response to your request for certification, pursuant to Ark. Code Ann. § 7-9-107 (Supp. 2015), of the popular name and ballot title for a proposed initiated measure.

At the outset, I wish to make clear to you that the decision to certify or reject a popular name and ballot title is in no way a reflection of my view of the merits of a particular proposal. I am not authorized to, and do not consider the merits of the measure when making my determination to certify or reject a popular name and ballot title.

The Attorney General is required, pursuant to Ark. Code Ann. § 7-9-107, to certify the popular name and ballot title of all proposed initiative and referendum acts or amendments before the petitions are circulated for signature. The law provides that the Attorney General *may, if practicable*, substitute and certify a more suitable and correct popular name and ballot title. Or, if the proposed popular name and ballot title are sufficiently misleading, the Attorney General may reject the entire petition.

Section 7-9-107 neither requires nor authorizes this office to make legal determinations concerning the merits of the act or amendment, or concerning the likelihood that it will accomplish its stated objective. In addition, consistent with Arkansas Supreme Court precedent, unless the measure is “clearly contrary to

law,”¹ this office will not require that a measure’s proponents acknowledge in the ballot title any possible constitutional infirmities.² Consequently, this review has been limited primarily to a determination, pursuant to the guidelines that have been set forth by the Arkansas Supreme Court, discussed below, of whether the popular name and ballot title you have submitted accurately and impartially summarize the provisions of your proposal.

The purpose of my review and certification is to ensure that the popular name and ballot title honestly, intelligibly, and fairly set forth the purpose of the proposed amendment or act.³

REQUEST

You have requested certification, pursuant to Ark. Code Ann. § 7-9-107, of the following popular name and ballot title for a proposed constitutional amendment:

Popular Name

AN AMENDMENT TO ALLOW THREE CASINOS TO OPERATE IN ARKANSAS, ONE EACH IN THE FOLLOWING COUNTIES: BOONE COUNTY, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC; MILLER COUNTY, OPERATED BY MILLER COUNTY GAMING, LLC; AND WASHINGTON COUNTY, OPERATED BY WASHINGTON COUNTY GAMING, LLC

Ballot Title

An amendment to the Arkansas Constitution authorizing [*sic*] three casinos to operate in Arkansas, one in Boone County, Arkansas,

¹ See *Kurrus v. Priest*, 342 Ark. 434, 445, 29 S.W.3d 669, 675 (2000); *Donovan v. Priest*, 326 Ark. 353, 359, 931 S.W.2d 119, 121 (1996); *Plugge v. McCuen*, 310 Ark. 654, 841 S.W.2d 139 (1992).

² As part of my review, however, I may address constitutional concerns for consideration by the measure’s proponents.

³ See *Arkansas Women’s Political Caucus v. Riviere*, 283 Ark. 463, 466, 677 S.W.2d 848 (1984).

operated by Arkansas Gaming and Resorts, LLC, an Arkansas Limited Liability Company, one in Miller County, Arkansas, operated by Miller County Gaming, LLC, an Arkansas Limited Liability Company, and one in Washington County, Arkansas, operated by Washington County Gaming, LLC, an Arkansas Limited Liability Company, all being subject to the laws enacted by the General Assembly in accord with this amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly; defining casino gaming and gaming as dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as accepting wagers on sporting events or other events, including, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the States of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee or Texas as of November 8, 2016, or as subsequently permitted thereafter; creating the Arkansas Gaming Commission to regulate casinos in accord with laws enacted by the General Assembly, with the Arkansas Gaming Commission comprised of 5 commissioners, each appointed by the Governor for staggered 5-year terms; providing for the General Assembly to appropriate monies to or for the use of the Arkansas Gaming Commission; requiring each casino to pay to the Arkansas State Treasury as general revenues a net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts; requiring each casino to pay to the county in which the casino is located a net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts; requiring each casino to pay to the city or town in which the casino is located a net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts; defining annual net casino gaming receipts as gross receipts for a 12 month period from casino gaming less amounts paid out or reserved as winnings to casino patrons for that 12 month period; subjecting each casino to the same income, property, sales, use, employment and other taxation as any for-profit business located in the county and city or town in which the casino is located, except that the Arkansas

Gross Receipts Act of 1941 and local gross receipts taxes shall not apply to casino gaming receipts; allowing a casino to operate any day for any portion or all of any day; allowing the selling or complimentary serving of alcoholic beverages in casinos during all hours the casino operates but otherwise subject to all applicable Arkansas laws involving the distribution and sale of alcohol; permitting the shipment into Boone, Miller and Washington Counties, Arkansas, of gambling devices shipped and delivered in accordance with applicable federal law (15 USC §§ 1171-1178 and amendments and replacements thereto); rendering the provisions of this amendment severable; declaring inapplicable all constitutional provisions and laws to the extent they conflict with this amendment, but not otherwise repealing, superseding, amending or otherwise affecting Amendment 84 (bingo or raffles), Amendment 87 (state lottery) to the Arkansas Constitution or Arkansas Act 1151 of 2005 (Electronic Games of Skill).

RESPONSE

The popular name is primarily a useful legislative device.⁴ It need not contain detailed information or include exceptions that might be required of a ballot title, but it must not be misleading or give partisan coloring to the merit of the proposal.⁵ The popular name is to be considered together with the ballot title in determining the ballot title's sufficiency.⁶

The ballot title must include an impartial summary of the proposed amendment or act that will give the voter a fair understanding of the issues presented.⁷ According to the Court, if information omitted from the ballot title is an "essential fact which would give the voter serious ground for reflection, it must be

⁴ *Pafford v. Hall*, 217 Ark. 734, 739, 233 S.W.2d 72, 75 (1950).

⁵ *See, e.g., Chaney v. Bryant*, 259 Ark. 294, 297, 532 S.W.2d 741, 743 (1976); *Moore v. Hall*, 229 Ark. 411, 316 S.W.2d 207 (1958). For a better understanding of the term "partisan coloring," see note 12 *infra*.

⁶ *May v. Daniels*, 359 Ark. 100, 105, 194 S.W.3d 771, 776 (2004).

⁷ *Becker v. Riviere*, 270 Ark. 219, 226, 604 S.W.2d 555, 558 (1980) (internal citations omitted).

disclosed.”⁸ At the same time, however, a ballot title must be brief and concise,⁹ otherwise voters could run afoul of Ark. Code Ann. § 7-5-309’s five-minute limit in voting booths when other voters are waiting in line.¹⁰ The ballot title is not required to be perfect, nor is it reasonable to expect the title to cover or anticipate every possible legal argument the proposed measure might evoke.¹¹ The title, however, must be “free of any misleading tendency whether by amplification, omission, or fallacy, and it must not be tinged with partisan coloring.”¹² The ballot title must be honest and impartial,¹³ and it must convey an intelligible idea of the scope and significance of a proposed change in the law.¹⁴

Furthermore, the Court has confirmed that a proposed measure cannot be approved if the text of the proposal itself contributes to confusion and disconnect between the language in the popular name and the ballot title and the language in the proposed measure.¹⁵ The Court concluded that “internal inconsistencies would inevitably lead to confusion in drafting a popular name and ballot title and to confusion in the ballot title itself.”¹⁶ Where the effects of a proposed measure on current law are unclear or ambiguous, it is impossible for me to perform my statutory duty to the satisfaction of the Arkansas Supreme Court without (1)

⁸ *Bailey v. McCuen*, 318 Ark. 277, 285, 884 S.W.2d 938, 942 (1994).

⁹ *See* Ark. Code Ann. § 7-9-107(b) (Supp. 2015).

¹⁰ *Bailey* at 284, 884 S.W.2d at 944.

¹¹ *Id.* at 293, 844 S.W.2d at 946-47.

¹² *Id.* at 284, 884 S.W.2d at 942. Language “tinged with partisan coloring” has been identified by the Arkansas Supreme Court as language that “creates a fatally misleading tendency” (*Crochet v. Priest*, 326 Ark. 338, 347, 931 S.W.2d 128, 133 (1996)) or that “gives the voter only the impression that the proponents of the proposed amendment wish to convey of the activity represented by the words.” (*Christian Civic Action Committee v. McCuen*, 318 Ark. 241, 249, 884 S.W.2d 605, 610 (1994)).

¹³ *Becker v. McCuen*, 303 Ark. 482, 489, 798 S.W.2d 71, 74 (1990).

¹⁴ *Christian Civic Action Committee*, 318 Ark. at 245, 884 S.W.2d at 607 (internal quotations omitted).

¹⁵ *Cf. Roberts v. Priest*, 341 Ark. 813, 825, 20 S.W.3d 376, 382 (2000).

¹⁶ *Id.*

clarification or removal of the ambiguities in the proposal itself, and (2) conformance of the popular name and ballot title to the newly worded proposal.

Applying the above precepts, it is my conclusion that the popular name is sufficient as proposed. It is necessary, however, to substitute a ballot title to correct minor grammatical and typographical errors in the ballot title as submitted. Accordingly, the following is hereby certified in order to ensure that, when construed together, the popular name and ballot title accurately set forth the purpose of the proposed measure:

Popular Name

AN AMENDMENT TO ALLOW THREE CASINOS TO OPERATE IN ARKANSAS, ONE EACH IN THE FOLLOWING COUNTIES: BOONE COUNTY, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC; MILLER COUNTY, OPERATED BY MILLER COUNTY GAMING, LLC; AND WASHINGTON COUNTY, OPERATED BY WASHINGTON COUNTY GAMING, LLC

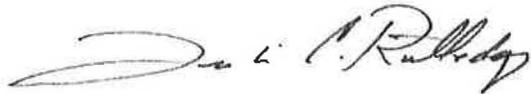
Ballot Title

An amendment to the Arkansas Constitution authorizing three casinos to operate in Arkansas, one in Boone County, Arkansas, operated by Arkansas Gaming and Resorts, LLC, an Arkansas Limited Liability Company, one in Miller County, Arkansas, operated by Miller County Gaming, LLC, an Arkansas Limited Liability Company, and one in Washington County, Arkansas, operated by Washington County Gaming, LLC, an Arkansas Limited Liability Company, all being subject to the laws enacted by the General Assembly in accord with this amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly; defining casino gaming and gaming as dealing, operating, carrying on, conducting, maintaining, or exposing for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as accepting wagers on sporting events or other events, including, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated

within any one or more of the States of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee, or Texas as of November 8, 2016, or as subsequently permitted thereafter; creating the Arkansas Gaming Commission to regulate casinos in accord with laws enacted by the General Assembly, with the Arkansas Gaming Commission comprised of five (5) commissioners, each appointed by the Governor for staggered 5-year terms; providing for the General Assembly to appropriate monies to or for the use of the Arkansas Gaming Commission; requiring each casino to pay to the Arkansas State Treasury as general revenues a net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts; requiring each casino to pay to the county in which the casino is located a net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts; requiring each casino to pay to the city or town in which the casino is located a net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts; defining annual net casino gaming receipts as gross receipts for a 12-month period from casino gaming less amounts paid out or reserved as winnings to casino patrons for that 12-month period; subjecting each casino to the same income, property, sales, use, employment and other taxation as any for-profit business located in the county and city or town in which the casino is located, except that the Arkansas Gross Receipts Act of 1941 and local gross receipts taxes shall not apply to casino gaming receipts; allowing a casino to operate any day for any portion or all of any day; allowing the selling or complimentary serving of alcoholic beverages in casinos during all hours the casino operates but otherwise subject to all applicable Arkansas laws involving the distribution and sale of alcohol; permitting the shipment into Boone, Miller, and Washington counties in Arkansas of gambling devices shipped and delivered in accordance with applicable federal law (15 USC §§ 1171-1178 and amendments and replacements thereto); rendering the provisions of this amendment severable; declaring inapplicable all constitutional provisions and laws to the extent they conflict with this amendment, but not otherwise repealing, superseding, amending, or otherwise affecting Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Arkansas Act 1151 of 2005 (Electronic Games of Skill).

Pursuant to Ark. Code Ann. § 7-9-108 (Supp. 2015), instructions to canvassers and signers must precede every petition, informing them of the privileges granted by the Arkansas Constitution and of the associated penalties for violations. Enclosed herewith are instructions that should be incorporated in your petition prior to circulation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Leslie Rutledge".

LESLIE RUTLEDGE
Attorney General

Enclosures

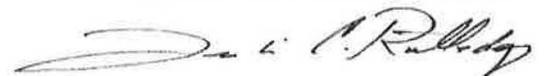
Instructions to Canvassers and Signers

1. The Arkansas Constitution gives Arkansas citizens the power to (a) initiate legislation by petition of 8% of the legal voters or constitutional amendments by petition of 10% of legal voters, or (b) order the referendum against any general act or any item of an appropriation bill or measure passed by the General Assembly by petition of 6% of legal voters. A proposed measure must be submitted at a regular election; referendum petitions may be referred at special elections on petition of 15% of the registered voters. Any measure submitted to the people becomes law when approved by a majority of the votes cast on the measure.
2. Only registered voters may sign. All signatures must be in the signer's own handwriting and in the presence of the person circulating the petition. The petition should contain only the signatures of voters residing in a single county.
3. Printed name, date of birth, residence, city or town of residence, and date of signing must be given as an aid to verification. If a petition signer needs assistance with this information due to disability, another person may print the signer's information and that person shall sign and print their name in the margin of the petition.
4. Do not attach additional sheets to this petition unless they contain the full language of the petition. The signature section of the petition must be formatted as prescribed by the Secretary of State.
5. Pursuant to section 5-55-601(b) of the Arkansas Code, each of the following activities constitutes "petition fraud," which is a Class A misdemeanor and is punishable by a fine of up to \$1,000 and imprisonment for up to one year:

A person commits the offense of petition fraud:

- (1) If the person knowingly:
 - (A) Signs a name other than his or her name to a petition;
 - (B) Signs his or her name more than one (1) time to a petition; or
 - (C) Signs a petition when he or she is not legally entitled to sign the petition;
- (2) If the person acting as a canvasser, notary, sponsor as defined under § 7-9-101, or agent of a sponsor:
 - (A) Signs a name other than his or her own to a petition;
 - (B) Prints a name, address, or birth date other than his or her own to a petition unless the signor requires assistance due to disability and the person complies with § 7-9-103;
 - (C) Solicits or obtains a signature to a petition knowing that the person signing is not qualified to sign the petition;
 - (D) Knowingly pays a person any form of compensation in exchange for signing a petition as a petitioner;
 - (E) Accepts or pays money or anything of value for obtaining signatures on a petition when the person acting as a canvasser, sponsor, or agent of a sponsor knows that the person acting as a canvasser's name or address is not included on the sponsor's list filed with the Secretary of State under § 7-9-601; or
 - (F) Knowingly misrepresents the purpose and effect of the petition or the measure affected for the purpose of causing a person to sign a petition;
- (3) If the person acting as a canvasser knowingly makes a false statement on a petition verification form; [or]
* * *
- (5) If the person acting as a sponsor files a petition or a part of a petition with the official charged with verifying the signatures knowing that the petition or part of the petition contains one (1) or more false or fraudulent signatures unless each false or fraudulent signature is clearly stricken by the sponsor before filing.

The Attorney General is by law required to certify the sufficiency of the popular name and ballot title of all initiative or referendum petitions. This certification does not necessarily indicate the approval or disapproval of the contents thereof.



LESLIE RUTLEDGE
Attorney General of the State of Arkansas

Popular Name

AN AMENDMENT TO ALLOW THREE CASINOS TO OPERATE IN ARKANSAS, ONE EACH IN THE FOLLOWING COUNTIES: BOONE COUNTY, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC; MILLER COUNTY, OPERATED BY MILLER COUNTY GAMING, LLC; AND WASHINGTON COUNTY, OPERATED BY WASHINGTON COUNTY GAMING, LLC.

Ballot Title

AN AMENDMENT TO THE ARKANSAS CONSTITUTION AUTHORIZING THREE CASINOS TO OPERATE IN ARKANSAS, ONE IN BOONE COUNTY, ARKANSAS, OPERATED BY ARKANSAS GAMING AND RESORTS, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, ONE IN MILLER COUNTY, ARKANSAS, OPERATED BY MILLER COUNTY GAMING, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, AND ONE IN WASHINGTON COUNTY, ARKANSAS, OPERATED BY WASHINGTON COUNTY GAMING, LLC, AN ARKANSAS LIMITED LIABILITY COMPANY, ALL BEING SUBJECT TO THE LAWS ENACTED BY THE GENERAL ASSEMBLY IN ACCORD WITH THIS AMENDMENT AND REGULATIONS PROMULGATED BY THE ARKANSAS GAMING COMMISSION IN ACCORD WITH LAWS ENACTED BY THE GENERAL ASSEMBLY; DEFINING CASINO GAMING AND GAMING AS DEALING, OPERATING, CARRYING ON, CONDUCTING, MAINTAINING, OR EXPOSING FOR PLAY ANY GAME PLAYED WITH CARDS, DICE, EQUIPMENT, OR ANY MECHANICAL, ELECTROMECHANICAL, OR ELECTRONIC DEVICE OR MACHINE FOR MONEY, PROPERTY, CHECKS, CREDIT, OR ANY REPRESENTATIVE VALUE, AS WELL AS ACCEPTING WAGERS ON SPORTING EVENTS OR OTHER EVENTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY GAME, DEVICE, OR TYPE OF WAGERING PERMITTED AT A CASINO OPERATED WITHIN ANY ONE OR MORE OF THE STATES OF LOUISIANA, MISSISSIPPI, MISSOURI, NEVADA, OKLAHOMA, TENNESSEE OR TEXAS AS OF NOVEMBER 8, 2016, OR AS SUBSEQUENTLY PERMITTED THEREAFTER; CREATING THE ARKANSAS GAMING COMMISSION TO REGULATE THE CASINOS IN ACCORD WITH LAWS ENACTED BY THE GENERAL ASSEMBLY, WITH THE ARKANSAS GAMING COMMISSION COMPRISED OF 5 COMMISSIONERS, EACH APPOINTED BY THE GOVERNOR FOR STAGGERED 5-YEAR TERMS; PROVIDING FOR THE GENERAL ASSEMBLY TO APPROPRIATE MONIES TO OR FOR THE USE OF THE ARKANSAS GAMING COMMISSION; REQUIRING EACH CASINO TO PAY TO THE ARKANSAS STATE TREASURY AS GENERAL REVENUES A NET CASINO GAMING RECEIPTS TAX EQUAL TO EIGHTEEN PERCENT (18%) OF ITS ANNUAL NET CASINO GAMING RECEIPTS; REQUIRING EACH CASINO TO PAY TO THE COUNTY IN WHICH THE CASINO IS LOCATED A NET CASINO GAMING RECEIPTS TAX EQUAL TO ONE-HALF OF ONE PERCENT (0.5%) OF ITS ANNUAL NET CASINO GAMING RECEIPTS; REQUIRING EACH CASINO TO PAY TO THE CITY OR TOWN IN WHICH THE CASINO IS LOCATED A NET CASINO GAMING RECEIPTS TAX EQUAL TO ONE AND ONE-HALF ONE PERCENT (1.5%) OF ITS ANNUAL NET CASINO GAMING RECEIPTS; DEFINING ANNUAL NET CASINO GAMING RECEIPTS AS GROSS RECEIPTS FOR A 12

MONTH PERIOD FROM CASINO GAMING LESS AMOUNTS PAID OUT OR RESERVED AS WINNINGS TO CASINO PATRONS FOR THAT 12 MONTH PERIOD; SUBJECTING EACH CASINO TO THE SAME INCOME, PROPERTY, SALES, USE, EMPLOYMENT AND OTHER TAXATION AS ANY FOR-PROFIT BUSINESS LOCATED IN THE COUNTY AND CITY OR TOWN IN WHICH THE CASINO IS LOCATED, EXCEPT THAT THE ARKANSAS GROSS RECEIPTS ACT OF 1941 AND LOCAL GROSS RECEIPTS TAXES SHALL NOT APPLY TO CASINO GAMING RECEIPTS; ALLOWING A CASINO TO OPERATE ANY DAY FOR ANY PORTION OR ALL OF ANY DAY; ALLOWING THE SELLING OR COMPLIMENTARY SERVING OF ALCOHOLIC BEVERAGES IN CASINOS DURING ALL HOURS THE CASINO OPERATES BUT OTHERWISE SUBJECT TO ALL APPLICABLE ARKANSAS LAWS INVOLVING THE DISTRIBUTION AND SALE OF ALCOHOL; PERMITTING THE SHIPMENT INTO BOONE, MILLER AND WASHINGTON COUNTIES, ARKANSAS, OF GAMBLING DEVICES SHIPPED AND DELIVERED IN ACCORDANCE WITH APPLICABLE FEDERAL LAW (15 USC §§ 1171-1178 AND AMENDMENTS AND REPLACEMENTS THERETO); RENDERING THE PROVISIONS OF THIS AMENDMENT SEVERABLE; DECLARING INAPPLICABLE ALL CONSTITUTIONAL PROVISIONS AND LAWS TO THE EXTENT THEY CONFLICT WITH THIS AMENDMENT, BUT NOT OTHERWISE REPEALING, SUPERSEDING, AMENDING OR OTHERWISE AFFECTING AMENDMENT 84 (BINGO OR RAFFLES), AMENDMENT 87 (STATE LOTTERY) TO THE ARKANSAS CONSTITUTION OR ARKANSAS ACT 1151 OF 2005 (ELECTRONIC GAMES OF SKILL).

FULL TEXT

An Amendment to the Constitution of the State of Arkansas adopted by the people of the State of Arkansas:

Section 1. Authorizing Casinos and Casino Gaming.

Casinos and casino gaming are hereby authorized in the State of Arkansas as provided in this Amendment.

The Arkansas General Assembly shall from time to time enact laws, and appropriate monies to or for the use of the Arkansas Gaming Commission created under section 2 of this Amendment, to fulfill the purposes of this Amendment. Initial laws and appropriations enacted by the General Assembly pursuant hereto shall be in full force and effect no later than June 30, 2017.

A casino means a facility where casino gaming is conducted as authorized by this Amendment.

Casino gaming means to deal, operate, carry on, conduct, maintain, or expose for play any game played with cards, dice, equipment, or any mechanical, electromechanical, or electronic device or machine for money, property, checks, credit, or any representative value, as well as to accept wagers on sporting events or other events. The term casino gaming includes, without limiting the generality of the foregoing, any game, device, or type of wagering permitted at a casino operated within any one or more of the states of Louisiana, Mississippi, Missouri, Nevada, Oklahoma, Tennessee or Texas as of November 8, 2016, or as subsequently permitted thereafter.

For purposes of this Amendment, gaming means the same thing as casino gaming.

Section 2. Commission Created — Members — Powers.

There is hereby created the Arkansas Gaming Commission. The regulation of the casinos authorized by this Amendment, and the administration of the laws pertaining thereto, are hereby vested in the Arkansas Gaming Commission. The Arkansas Gaming Commission shall from time to time adopt regulations to regulate casinos and casino gaming in Arkansas in accord with laws enacted by the General Assembly. Initial regulations adopted by the Arkansas Gaming Commission shall be in full force and effect no later than March 31, 2018. The Arkansas Gaming Commission shall be comprised of five Commissioners, all of whom shall be appointed by the Governor. The first Commissioners of the Arkansas Gaming Commission shall be appointed no later than July 31, 2017, by the Governor for terms of one, two, three, four, and five years, respectively. The terms of the persons so appointed shall be determined by lot.

Upon the expiration of the foregoing terms of said Commissioners, successors shall be appointed by the Governor for terms of five years. Any vacancy arising in the membership on the Arkansas Gaming Commission for any reason other than the expiration of the regular term for which the Commissioner was appointed shall be filled by appointment by the Governor, to be thereafter effective until the expiration of such regular term.

The Governor shall have the power to remove any Commissioner for cause only, after notice and hearing before the Arkansas Gaming Commission. Such removal shall become effective only when approved in writing by a majority of the total number of the Commissioners, but without the right to vote by the Commissioner removed or by the successor Commissioner, which action shall be filed with the Secretary of State together with a complete record of the proceedings at the hearing. An appeal may be taken to the Pulaski County Circuit Court by the Governor or the Commissioner ordered removed, and the same shall be tried de novo on the record. An appeal may be taken from the Circuit Court to the Arkansas Supreme Court, which shall likewise be tried de novo.

Section 3. Authorized Locations and Licensees.

Casinos allowed under this Amendment shall be limited to no more than one casino in each of the following Arkansas counties and shall be operated by designated licensees as follows, with all licensees hereunder being subject to the laws enacted by the General Assembly in accord with this Amendment and regulations promulgated by the Arkansas Gaming Commission in accord with laws enacted by the General Assembly:

- a. Boone County, operated by Arkansas Gaming And Resorts, LLC, an Arkansas limited liability company, its successors or assigns;
- b. Miller County, operated by Miller County Gaming, LLC, an Arkansas limited liability company, its successors or assigns; and
- c. Washington County, operated by Washington County Gaming, LLC, an Arkansas limited liability company, its successors or assigns.

Section 4. Taxation.

Each casino shall pay an annual net casino gaming receipts tax equal to eighteen percent (18%) of its annual net casino gaming receipts to the Arkansas State Treasury as general revenues. Each casino shall pay an annual net casino gaming receipts tax equal to one-half of one percent (0.5%) of its annual net casino gaming receipts to the county in which the casino is located. Each casino shall pay an annual net casino gaming receipts tax equal to one and one-half percent (1.5%) of its annual net casino gaming receipts to the city or town in which the casino is located. Annual net casino gaming receipts are defined as gross receipts for a 12-month period from casino gaming, less amounts paid out or reserved as winnings to casino gaming patrons for that 12-month period. Amounts paid out or reserved as winnings to casino gaming patrons and the annual net casino gaming receipts taxes paid or reserved are deductible for purposes of calculating the casino's net income under the Income Tax Act of 1929 (Ark. Code Ann. §§ 26-51-101 et seq.) and any amendments or replacements thereto.

The tax imposed by Arkansas Gross Receipts Act of 1941 (Ark. Code Ann. §§ 26-52-101 et seq.), any amendments or replacements thereto, and any related local gross receipts taxes, shall not apply to casino gaming receipts, and no additional tax on casino gross receipts shall be imposed by the State or by counties, municipalities or other units of local government. Except for the exclusion in the previous sentence, each casino shall be subject to the same income, property, sales, use, employment or other taxation or assessments as any for-profit business located in the county and city or town in which the casino is located. No additional State or local taxes, fees, or assessments shall be imposed on the casinos except as authorized in this Amendment.

Section 5. Other Operational Provisions.

Casinos may operate any or all days of the year and for any or all portions of a 24-hour day.

Casinos shall be permitted to sell alcoholic beverages or provide complimentary servings of alcoholic beverages during all hours in which the casino is operating. Casinos shall be subject to all applicable Arkansas laws involving the distribution and sale of alcohol that do not conflict with the previous sentence.

Section 6. Legal Shipment of Gambling Devices into State.

All shipments of gambling devices, including slot machines, into any county of this State within which casino gaming is authorized, the registering, recording, and labeling of which have been duly performed by the manufacturer and/or dealer thereof in accordance with 15 U.S.C. §§ 1171-1178 and amendments and replacements thereto, shall be deemed legal shipments thereof into any such county of this State within which casino gaming is authorized.

Section 7. Severability.

If any provision of this Amendment, or the application of any such provision to any person or circumstance is held invalid, the validity of any other provision of this Amendment, or the application of such provision to other persons and circumstances, shall not be affected thereby, and to this end the provisions of this Amendment are declared to be severable.

Section 8. Inconsistent Provisions Inapplicable.

All provisions of the Constitution of this State and statutes of this State, including, but not limited to, laws forbidding the judicial enforcement of gambling debts and statutes declaring gambling to be crimes, to the extent inconsistent or in conflict with any provision of this Amendment are expressly declared null and void as to, and do not apply to, any activities allowed under this Amendment. However, this Amendment does not repeal, supersede, amend, or otherwise affect Amendment 84 (bingo or raffles) or Amendment 87 (state lottery) to the Arkansas Constitution, or Act 1151 of 2005 (electronic games of skill) (Ark. Code Ann. §§ 23-113-101 et seq.).