

INTERIM JOINT COMMITTEE ON LICENSING, OCCUPATIONS, AND ADMINISTRATIVE REGULATIONS

Minutes of the 2nd Meeting of the 2021 Interim

July 26, 2021

Call to Order and Roll Call

The 2nd meeting of the Interim Joint Committee on Licensing, Occupations, and Administrative Regulations was held on Monday, July 26, 2021, at 11:00 AM, in Room 131 of the Capitol Annex. Representative Adam Koenig, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator John Schickel, Co-Chair; Representative Adam Koenig, Co-Chair; Senators Julie Raque Adams, Jimmy Higdon, Christian McDaniel, Michael J. Nemes, Damon Thayer, and Reginald Thomas; Representatives Kim Banta, Kevin D. Bratcher, Tom Burch, Patrick Flannery, Al Gentry, Thomas Huff, Matthew Koch, C. Ed Massey, Chad McCoy, Michael Meredith, Jerry T. Miller, Ruth Ann Palumbo, Phillip Pratt, Sal Santoro, and Killian Timoney.

Guests: Joni Jenkins, State Representative; Mike Mulrooney, Shirley's Way; Ambrose Wilson IV, Commissioner, Doug Hardin, Staff Attorney, Department for Charitable Gaming; John Blanton, State Representative; Lora Parks, Chair, and Ann Simmons, Kentucky Board of Licensing and Certification for Dietitians and Nutritionists; and Anetha Sanford, CEO/EVP, Homebuilders Association of Kentucky.

LRC Staff: Tom Hewlett, Bryce Amburgey, Jasmine Williams, Melissa McQueen, and Lisa W. Moore

At the request of Senator Schickel, a resolution commemorating former Senator Tom Buford was read. Senator Thayer motioned to adopt the resolution, and Senator Thomas seconded the motion. Motion was adopted by voice vote. Chairman Koenig also recognized former State Representative John "Bam" Carney, who also recently passed away.

Overview of Residential Construction in Kentucky

Anetha Sanford, CEO/EVP, Homebuilders Association of Kentucky (HBAK), provided a brief overview on the status of residential construction in Kentucky. The HBAK is a statewide voluntary trade organization comprised of 4,700 member companies in the

housing and construction industry representing over 40,000 employees from across the Commonwealth. One-third of the membership is builders and remodelers, and the remaining members are those that help serve the industry. They are also affiliated with the National Homebuilders Association and over 20 local associations across the state. HBAK strives to protect the American dream of housing opportunities for all, while working to achieve professional success for its members who build communities, create jobs and strengthen the economy.

Ms. Sanford said when 100 new homes are built, \$28.7 million in income is generated, including \$3.6 million in taxes and fees for local and state governments. Also, 394 local jobs are created. The one-year impact of \$1 million spent on residential remodeling is estimated to be \$841,000 in income, \$71,000 in taxes and fees for local and state governments, and 12 jobs are created. Industries that benefit from new home construction include: electricians; architects; mortgage companies; landscapers; banks; engineers; carpenters; lumber dealers; suppliers; painters; realtors; and plumbing/HVAC. In 2005 in Kentucky, close to 18,000 new homes were constructed compared to 12,000 in 2020. Total new home building permits in Kentucky in 2021 show a 25 percent increase, an increase of 1,300 more homes over this time last year. The lumber prices that spiked during the COVID-19 pandemic are beginning to trickle down. Workforce and labor shortages continue to be a problem for the industry. Privately-funded schools are assisting in addressing the workforce shortages by offering certifications in plumbing, electrical, carpentry, welding, and HVAC.

Responding to a question from Representative Bratcher regarding the percentage of new construction that is apartment buildings, Ms. Sanford said she will get the information.

Responding to a question from Representative Gentry regarding extreme shortages of affordable housing in Kentucky, Ms. Sanford said there an interest in assembling an industry group of realtors, bankers, builders, and city officials that will look into this issue to find ideas to appeal to investors, while driving down overall costs to building a new home. She also mentioned tax credits as a solution.

Responding to Representative Miller regarding tax revenue generated for local and state governments, including school boards, Ms. Sanford is not sure if school roads were included, but will find out. Representative Miller discussed the importance of infrastructure and finding transportation dollars to maintain our roads and bridges to meet the need of supporting larger populations.

Charitable Gaming

State Representative Joni Jenkins, Minority Floor Leader, said charities and non-profit organizations have communicated that the charitable gaming law is in need of updating. Mr. Mike Mulrooney, Shirley's Way, runs a non-profit 501c3 whose mission is to help people fighting cancer with everyday bills such as food, medicine, rent, mortgage, etc. When someone is diagnosed with cancer they are often so sick that they cannot work

and often have to take off work without pay, or they are let go from their job due to absence. Shirley's Way has given away \$1,127,000 to people in Kentucky. They have embraced charitable gaming and have taken it to the next level. Several websites were built to sell tickets online and online ticket sales have enabled them to sell tickets across the Commonwealth. These raffle websites are unique to Kentucky and cutting edge.

Mr. Mulrooney said there are several things that could help non-profits raise more money and make an even larger impact in the Kentucky community. Eliminating the 40 percent rule would help, as most businesses do not turn a profit for at least two years. Allowing digital raffles online and picking the winners using an RNG would also help. The emergency COVID regulation needs to be made permanent. Allowing Shirley's Way to run raffles for other organizations for a donation from the money they make. Level the playing field and allow bigger and better gaming machines with full cabinets, displays, graphics, and sound. Allow pull tab vending machines in bars and allow the bar staff to give the payouts. Adjust gaming tax to money actually gamed, not money replayed. This was a \$43,000 difference and tax was paid on over \$7 million versus \$1.9 million.

Responding to a question from Representative Jenkins regarding providing exemptions for small charities that cannot reach 40 percent, Chairman Koenig said it is something that can be looked at and discussed.

Ambrose Wilson IV, Commissioner, and Doug Hardin, General Counsel, Department for Charitable Gaming, said all net receipts from charitable gaming must go toward the organization's charitable purpose. It does not mean that 40 percent of the money a charity makes off charitable gaming must go toward a charitable purpose. Instead, a charity cannot spend more than 60 percent of the money it has left over after paying out the gaming winners on the expenses of operating gaming (e.g., supplies, rent, utilities). Penalties for violations were explained, and benefits of the 40 percent requirement were discussed.

Common reasons charities do not meet the 40 percent retention rule include paying too much for expenses, such as bingo supplies or facility rent. Conducting gaming with variable profit margins such as bingo, high payout games with low attendance, and low bingo paper sales also result in lower adjusted gross receipts, making it harder to reach the 40 percent retention goal. Raffles purchasing expensive prizes and not selling enough tickets to cover the cost of the prize is a common problem. Pull tabs (paper or electronic) and "50/50" or "split the pot" raffles are the riskiest forms for charitable gaming for organizations to meet the 40 percent standard.

During the pandemic, several organizations continued to have on-going expenses related to charitable gaming, such as rent and utility payments, with limited ability to generate funds through charitable gaming. If not for the passage of 2021 RS HB 226, which gave charities a one year reprieve from the 40 percent rule, the number of charities that would have been placed on probation or suspended would have increased significantly.

Eleven licensed charitable gaming organizations had a retention percentage less than 40 percent, and three had retention percentage under 25 percent, which would result in a one-year suspension. The combined retention percentage of all licensed charitable organizations was 73.69 percent, which is up from the previous three-year average of about 63.2 percent.

Representative Burch asked if the 40 percent requirement was averaged over the quarters of the year. Mr. Hardin said the 40 percent figure is based on the entire calendar year.

2021 RS HB 304 AN ACT relating to fees for dieticians and nutritionists

State Representative John Blanton said inflation has overcome the fees for dieticians and nutritionists in Kentucky. He said an increase in fees is needed. Lora Parks, Chair, and Ann Simmons, Secretary, Kentucky Board of Licensing and Certification for Dieticians and Nutritionists, explained that the Board is just breaking even each year, not including travel expenditures. Ms. Parks said that a modest fee increase from \$50 – \$75 would solve the problems. She said the board is very conservative, but a cushion is needed for some legal issues on the horizon, such as regulation changes. Ms. Simmons said the fees have not been increased in 33 years since 1988.

Representative Blanton said this bill provides latitude to make fee adjustments in the future. Chairman Koenig would like the Board to send him the budget and details for the last few years, and he also recommended putting fee increases in administrative regulations instead of statute. Senator Higdon said administrative regulation is the best avenue for fee increases.

Unregulated Med Spas

Julie Campbell, Administrator, Board of Cosmetology, and Leanne Diakov, General Counsel, Kentucky Board of Medical Licensure, joined the committee via Zoom link. Ms. Campbell testified that Kentucky has no oversight on dangerous procedures in the ever-changing world of cosmetic medicine. Currently, there is no regulatory framework for training for invasive laser work, Botox, fillers, and other injectables. This is extremely dangerous for safety and infection control. Medical training is needed for unregulated medical spas to provide protection and oversight for the public.

Ms. Diakov said she supports Ms. Campbell's testimony and restated the need for concise statutory language applicable to all medical spas in Kentucky. There are different requirements for the same medical procedures for doctors, nurses, and estheticians, which leads to more confusion.

Representative Miller cautioned that new language for med spas should not include tattoo parlors. Ms. Campbell said they are not interested in including tattoo parlors, and only interested in providing a framework for the medical procedures previously discussed.

Responding to a question from Senator Higdon regarding what other state have done, Ms. Campbell said Tennessee has worked on this. She said Kentucky will look to other states and what has they have done to help reduce barriers and make sure businesses are not impeded, but protected.

With no further business before the committee, the meeting adjourned at 12:10 p.m.