

Gaming Control Act Introduced

On March 4, 2002 the Honourable Rich Coleman, Minister of Public Safety and Solicitor General introduced Bill 6, *Gaming Control Act*. The Bill confirms the direction taken by the government back in September 2001 to streamline and consolidate gaming in BC - with the establishment of one Act, the *Gaming Control Act*, and two gaming agencies, the BC Lottery Corporation and the Gaming Policy and Enforcement Branch.

Prior to September there were five gaming agencies; BC Gaming Commission, BC Racing Commission, Gaming Policy Secretariat, Gaming Audit and Investigation Office and the BC Lottery Corporation; and four Acts; Lottery Act, Lottery Corporation Act, Horseracing Act and the Horseracing Tax Act; governing gaming in BC.

Highlights of Act include:

- confirms that the BC Lottery Corporation (BCLC) is responsible for the conduct and management of gaming on behalf of the government. The Act states that the BCLC "may develop, undertake, organize, conduct, manage and operate provincial gaming on behalf of the government...." The Act also provides for the BCLC to manage horseracing on behalf of the government "if directed to do so by the minister."
- broadens the definition of gaming facility to include:
 - a race track for horseracing,
 - a horse racing teletheatre
 - a permanent bingo facility
 - a facility for casino gaming, and
 - any other facility within a prescribed class of facilities.
- confirms that the municipality, regional district or first nation which has the authority over land use planning must provide approval when a gaming facility is proposed to be

developed, relocated or a substantial change is proposed .

- confirms that in the case of a facility development, relocation or substantial change, the municipality, regional district or first nation has to consult each municipality, regional district or first nation that is "immediately adjacent or that the lottery corporation considers will be materially affected..."
- non-binding dispute resolution process in place for those communities where there is a concern that they would be materially affected as a community immediately adjacent to the proposed location or relocation.
- prohibits minors on gaming facility premises unless allowed to be present under the regulations.

LACK OF CLARITY AND DETAIL A CONCERN

While UBCM members have supported the consolidation of all gaming activities under one Act, Bill 6 lacks the degree of clarity and detail that was expected, leaving a great amount uncertainty and concern for local governments. Specifically, the following areas have been highlighted based on existing UBCM gaming policy:

- Bill 6 was introduced without any

prior consultation with local governments. Under the Memorandum of Agreement between UBCM and the provincial government, one of the many principles agreed to was that the Province was to *consult in a meaningful way with local government regarding the form and content of gaming legislation before it was introduced into the Legislature.*

The Protective Services Committee had written to the Minister about the status of the Memorandum of Agreement with UBCM. In his response the Minister stated: "*All elements of the Memorandum of Agreement with UBCM remain in place.*" However with respect to the introduction of gaming legislation the Minister indicated: "*Further to recent changes in the management of gaming in BC, I intend to introduce comprehensive gaming legislation in Spring 2002. This follows from a series of consultations that have taken place with all gaming stakeholders in recent years. I do not anticipate any additional consultation in regard to the legislation.*"

- no reference to the revenue sharing arrangements presently in place with local governments hosting community or destination casinos. Existing agreements presently provide for a 10% or 1/6 share with local governments hosting either community and destination casinos, respectively.

(In conversation with Ministry staff, UBCM was advised that the revenue sharing arrangements with local governments are not in the Act since there are existing contracts with host communities in place. Concern is that if there is no reference to the revenue sharing arrangement in the Act, there is not certainty for local governments that the present financial arrangements will continue.)

- no distinction between types of casinos under the definition of gaming facility. It is not known if the different sharing percentages will remain in place or if there will be changes to the existing agreements once they have expired, since there is no longer a definitional distinction between the two types of casinos.
- with respect to locations, relocations, or substantial change to gaming facilities, the act recognizes the local government's jurisdiction over land use planning where the facility is facility or proposed facility is to be located. However, there is no definition of what constitutes "substantial change" to a gaming facility. Will this be a determination of the Minister, the BC Lottery Corporation, the local government or someone else?
- a municipality, regional district or first nation must not give approval to a relocation, location, or substantial change without first ensuring that "adequate community input has been sought and considered." What type of consultation is expected? Is a public hearing considered adequate?
- a municipality, regional district or first nation must also consult with adjacent communities or those others that "the lottery corporation considers will be materially affected

by the gaming facility or proposed gaming facility and its location, relocation or substantial change, as the case may be." As there is no definition of "materially affected" it appears that this will be defined by the lottery corporation since they are the agency responsible for overseeing the location, relocation and substantial change to a facility.

- does not appear to be any provision for an independent appeal body where there are disputes between parties over gaming decisions.
- no reference to slot machines, video lottery terminals or the provincial government's position about prohibiting specific types of gaming.
- broad powers of the general manager of the Gaming Policy and Enforcement Branch are a concern. Powers include:
 - the development of gaming policy under the minister's direction;
 - may establish criteria necessary for considering, reviewing and evaluating proposals for new or existing gaming facilities;
 - specify the fairs and exhibitions at which gaming events may be conducted;
 - monitor compliance by eligible organizations that receive grants;
 - may refuse to issue or renew a license; as well as
 - direct that the branch conduct investigations related to lottery schemes or horse racing, etc. There is no separation of the policy making role and the enforcement role, the same individual is advising on policy matters that is determining what issues need to be investigated. The general manager is an appointment of the minister.
- the definition of "horse racing teletheatre" is yet to be defined by

the Lieutenant Governor in Council through regulation therefore it is unclear what other types of gaming activities may be included at these facilities.

- no confirmation in the Act of the amount of revenue the province will allocate to charities or to problem gambling.
- no provision for consultation with local governments prior to making any further changes to gaming policy.
- at the January 16th Open meeting, Cabinet adopted the following position with respect to 'no expansion to gambling' policy:

In order to reduce the exposure to litigation, allow those casinos that have taken significant steps and made investments based on direction from government and/or the BC Lottery Corporation to relocate and/or expand capacity. It is estimated that four casinos currently without slot machines fall into this category. The remaining casinos without slot machines would not be eligible. No new licenses would be issued.

UBCM needs to seek clarification about how this directive fits with the present location, relocation and substantial change process outlined in Bill 6.

- in an earlier report to government by Peter Meekison, he recommended that a separate agency be established to oversee the location and relocation process through an independent and transparent selection process. Under Bill 6, the BCLC will continue to manage the process.

The UBCM's Protective Services Committee will be seeking clarification from the province on these matters in the coming weeks. As information becomes available UBCM will make it known to the membership.