



WASHOE COUNTY

Integrity Communication Service

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STAFF REPORT

BOARD MEETING DATE: October 13, 2020

DATE: September 2, 2020
TO: Board of County Commissioners
FROM: Dave Solaro, Arch., P.E., Assistant County Manager
Community Services Department, 328-3600, dsolaro@washoecounty.us
THROUGH: Eric Brown, County Manager
SUBJECT: Possible action to direct County staff on Collection of approximately \$170,805.00 FY20 quarter four AB 104 Gaming Tax and distribution of AB 104 Accounts Receivables to Other Local Governments and Special Districts, and; possible direction to staff on Washoe County Code Chapter 30.390 – License fees; penalties as they relate to issuing of credits and waiving of penalties totaling approximately \$59,000.00 for the period of April 1, 2020 through June 4, 2020; and,

Staff recommends, equally dividing the outstanding tax over the remaining two quarters of FY21 and distributing the appropriate share to each of the other ten entities that receive the tax; and,

issuing credits and waiving Washoe County gaming license penalties during the period of April 1, 2020 through June 4, 2020, due to the impacts of COVID-19 on gaming revenue in Washoe County. (All Commission Districts.)

SUMMARY

On March 17, 2020, Nevada Governor Steve Sisolak verbally ordered and followed up with a Declaration of Emergency directive 002, which under section 1 states:

“ Section 1: The Nevada general public shall cease gathering at gaming establishments, and all gaming devices, machines, tables, games, and any equipment related to gaming activity shall cease operations effective March 17, 2020, at 11:59 p.m., for the duration that this Directive shall be in effect. This prohibition does not extend to licensed online gaming or mobile wagering operations;...”

This declaration remained in effect until June 4, 2020 when the Governor, through Declaration of Emergency directive 023 section 35, allowed a phased and incremental resumption of gaming operations following requirements set by the Nevada Gaming Control Board. Staff requests direction from the Board of County Commissioners (Board) related to collection of the fourth quarter FY20 (April – June 2020) AB 104 gaming tax.

Washoe County Business License staff have received many inquiries related to gaming

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license fees for Washoe County that were billed and paid prior to closure per Governor directive. Only the Board can waive gaming license penalties per County Code Chapter 30. Currently, under the Washoe County Manager's Emergency Declaration, the Community Services Department has waived penalties related to non-payment of gaming fees; however, the Board is being asked to provide direction related to issuing credits and waiving penalties during the time the Governor suspended all gaming within the State of Nevada due to COVID-19 (April 1, 2020 through June 4, 2020).

Strategic Objective supported by this item: Safe, secure and healthy communities.

PREVIOUS ACTION

On June 9, 1991, upon the adoption of Ordinance Number 833, the Board imposed five new revenues as allowed by Assembly Bill 104, often referred to as the "fair share" bill. These new AB 104 revenues included a new gaming tax.

On February 9, 2016, the Board received a report prepared by Grant Thornton LLP of agreed-upon procedures for collection of the County's AB 104 gaming tax.

On April 12, 2016, the Board gave direction to staff to collect under-collected AB 104 Gaming Tax for Fiscal Year 2015-16.

BACKGROUND

Beginning in Fiscal Year 1991-1992, the County started collection of the AB 104 gaming tax. The tax is limited by law and is calculated by multiplying all other AB 104 revenues projected for the fiscal year by a percentage based on historical gaming tax revenues for Fiscal Year 1990-1991. This percentage is 4.419175%.

On March 17, 2020, Nevada Governor Steve Sisolak verbally ordered and followed up with a Declaration of Emergency directive 002 that suspended all but online gaming within the State of Nevada due to COVID-19. In early March 2020, Washoe County Business License staff issued gaming license renewal notices to operators for the final quarter of the fiscal year. Many gaming operators paid the license renewal; however, 34 operators held off until after the Governor's directive was issued and subsequently changed the number of machines, tables, sportsbooks, etc., that was allowed to operate for the quarter, which lowered the calculation for their AB 104 gaming tax. AB 104 gaming tax is collected by Washoe County and distributed to other local jurisdictions and special districts as outlined by Nevada law.

Staff has discussed payment of the outstanding tax with the Nevada Resort Association whose membership pays approximately 80% of the overall tax. Washoe County Code Chapter 30 requires this matter to be heard by the Washoe County Commission, and staff requests a policy discussion related to the appropriate way to equitably collect the approximately \$126,000 unpaid tax.

Since first and second quarter FY21 license fee notices have already been sent to business license holders, staff recommends that for the 34 operators who reduced their taxable amount of games, that spreading the outstanding tax over the remaining two quarters of

FY21 would be appropriate. The Nevada Resort Association was appreciative that Washoe County reached out to explain the issue and work through an agreeable approach. The Association has requested that the County grant as much time as possible for their members to pay the outstanding amounts.

Washoe County Business License staff have received many inquiries related to gaming license fees for Washoe County that were billed and paid prior to closure per Governor directive. Only the Board can waive gaming license penalties per county code chapter 30. Additionally under the Washoe County Manager's Emergency Declaration, the Community Services Department has withheld assessing penalties related to non-payment of gaming license fees; however, the Board is being asked to provide direction related to issuing credits and waiving penalties during the time the Governor suspended all gaming within the State of Nevada due to COVID-19.

Staff recommends that although it will most likely be a manual process, it is fair to allow the crediting of Washoe County license fees paid for two of the three months that gaming was not able to occur, additionally waiver of penalties associated with the nonpayment of gaming license fees should be considered for the period of April 1, 2020 to June 4, 2020. The amount of gaming license fee paid to Washoe County during the final quarter of FY20 is approximately \$58,000.00.

FISCAL IMPACT

Should the Board approve staff's recommendation, the gaming tax not collected during the fourth quarter of fiscal year 2019/2020 for all entities that would be paid is approximately \$170,805.00. County staff proposes to collect this over the last two quarters of fiscal year 2020/2021 equally in each quarter and distribute the appropriate share to each of the other ten entities that receive the tax.

For Washoe County License fees, the amount recommended by staff to be credited is approximately \$59,000.00 which is two months of license fees (April and May 2020). This would only be the portion of license fees that are collected for Washoe County use.

RECOMMENDATION

It is recommended that the Board of County Commissioners direct staff to collect approximately \$170,805.00 FY20 quarter four AB 104 Gaming Tax and distribute AB 104 Accounts Receivables to Other Local Governments and Special Districts, and; direct staff on Washoe County Code Chapter 30.390 – License fees; penalties as they relate to issuing of credits and waiving of penalties totaling approximately \$59,000.00 for the period of April 1, 2020 through June 4, 2020; and,

equally divide the outstanding tax over the remaining two quarters of FY21 and distributing the appropriate share to each of the other ten entities that receive the tax; and,

issue credits and waive Washoe County gaming license penalties during the period of April 1, 2020 through June 4, 2020, due to the impacts of COVID-19 on gaming revenue in Washoe County.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be: "Move direct staff to collect approximately \$170,805.00 FY20 quarter four AB 104 Gaming Tax and distribute AB 104 Accounts Receivables to Other Local Governments and Special Districts, and; direct staff on Washoe County Code Chapter 30.390 – License fees; penalties as they relate to issuing of credits and waiving of penalties totaling approximately \$59,000.00 for the period of April 1, 2020 through June 4, 2020; and,

equally divide the outstanding tax over the remaining two quarters of FY21 and distributing the appropriate share to each of the other ten entities that receive the tax; and,

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