
Commerce & Labor Committee

HB 1667

Brief Description: Clarifying local government land use and zoning powers over gambling activities.

Sponsors: Representatives Conway, Hankins, Kenney, Crouse, Kirby, Delvin, Hudgins, Lantz, Sullivan, McCoy and Campbell.

Brief Summary of Bill

- States that the Gambling Act does not limit a local jurisdiction's authority to exercise land use and zoning powers with respect to gambling activities authorized under the Act.

Hearing Date: 1/14/04

Staff: Chris Cordes (786-7103).

Background:

Under the Washington Gambling Act of 1973 (Act), the Washington State Gambling Commission (Commission) has exclusive authority to license and regulate gambling activities. The Act preempts local licensing and regulatory authority over gambling, except for those powers and duties specifically granted to a city or county under the Act. A city or county may enact only such local ordinances related to gambling that do not conflict with the rules of the Commission and that are consistent with the powers and duties granted to local jurisdictions under the Act.

A license issued by the Commission is legal authority to engage in the gambling activity for which the license is issued throughout incorporated and unincorporated areas of the state. However, a city or county may absolutely prohibit any or all of the gambling activities for which the license is issued, but may not change the scope of the license.

Article XI, section 11 of the State Constitution provides that a city or county may make and enforce local police, sanitary, and other regulations that are not in conflict with general laws. Local governments implement their comprehensive plans by adopting zoning ordinances. Zoning is a means of controlling use of land by placing certain restrictions on structures and improvements located on property in a particular zone.

According to information compiled by the Commission, nearly 60 local jurisdictions have prohibitions or other limits on gambling activities as of January 8, 2004. In 17 jurisdictions, a ban on cardrooms also includes allowances for existing cardrooms or provisions to phase out of card rooms. Six jurisdictions include some kind of zoning restrictions on gambling activities.

In June 2003, the Washington Court of Appeals, Division I, decided a case involving an ordinance adopted by the City of Edmonds. This ordinance banned card rooms and phased out existing card rooms. The Court upheld the ban, but also found that the provisions to phase out existing card rooms were preempted by state law. The Court explained that the city was authorized under state law to ban a gambling activity, but that it was not authorized to regulate such activity by phasing it out. The card room owner also claimed a vested right under a building permit that had been granted by the city before adopting its card room ban. The Court held that any claim to a vested right was extinguished when the city adopted its card room ban.

Summary of Bill:

A city, town, city-county, or county may exercise its land use and zoning powers with respect to any land uses involving gambling activities authorized by the Act.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.