



## MASSACHUSETTS GAMING COMMISSION

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### MEMORANDUM

**To:** Chair Judd-Stein and Commissioners Cameron, O'Brien, Stebbins, and Zuniga  
**From:** Karen Wells, Interim Executive Director and Derek Lennon, CFAO  
**Date:** 4/9/2020  
**Re:** Fiscal Year 2020 (FY20) Second and Third Budget Update

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#### **Summary:**

The Massachusetts Gaming Commission approved a FY20 budget for the Gaming Control Fund of \$34.2M, composed of \$28.4M in regulatory costs and \$5.78M in statutorily required costs. Additionally, for the first time, the entire Research and Responsible Gaming budget will be funded from the Public Health Trust Fund (PHTF), at an added \$6.5M. After balancing forward \$1.44M in FY19 excess revenue, the Gaming Control Fund requires an assessment of \$28.39M on licensees. Licensees were also assessed an additional \$5M for the PHTF. The combination of the assessments for the Gaming Control Fund and the PHTF result in a total assessment of \$33.39M on licensees.

The approved FY20 budget does not include funding for additional costs of on-going litigation and, as discussed at the first quarterly update, has a built in deficiency for public safety overtime costs. Due to the COVID-19 pandemic, staff has worked to review the previously identified deficiencies, as well as any additional areas where the MGC could reduce spending, without impacting core services. We have also reviewed revenue and made assumptions in a worse-case scenario, where: the revenue received as of the end of March (not inclusive of mandatory payments from casino licensees) would be final revenues for fiscal year 2020. The combination of the aforementioned two exercises result in proposed spending of \$33.78M and revenue of \$35.93M in the Gaming Control Fund, which represents a possible \$2.15M reduction in the assessment on licensees.

#### **Spending Update:**

##### ***Second Quarter—***

When the Commission approved the initial FY20 budget it was with the knowledge that only the bare minimum required for the MGC's insurance policy was funded in the litigation budget. In addition, the FY20 funding level included a 25% increase for public safety overtime (OT) to account for the opening of EBH, however, this was half of the amount requested. Funding for the Gaming Enforcement Unit (GEU) OT at EBH was an aspirational goal.

Through the first six months of FY20, GEU spent approximately 90% of the \$1.25M OT budget. However, the GEU State Police straight time had underspent its allocation by \$225K. At the midyear timing, staff suggests that straight time underspending, combined with an additional \$600K for OT would be a realistic target to complete the fiscal year. Additionally, the legal department spent the



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entirety of its litigation budget, as of the end of the second quarter. Staff is recommending increasing that budget by \$560K to complete litigation matters for the fiscal year.

The MGC experienced some attrition, as well as delays in hiring, which resulted in a savings of \$600K in payroll and ~\$228K in fringe and payroll tax savings. These savings will help to offset some of the additional costs mentioned above.

### **Third Quarter—**

On March 14, 2020 the Commission, with the cooperation of our licensees, unanimously voted to suspend gaming operations in response to the COVID-19 pandemic. On March 15, 2020 Governor Baker issued an emergency order limiting gatherings to 25 people and prohibiting on premises consumption of food or drink at bars and restaurants, beginning on March 17 and ending on April 7. Additionally, on March 23, 2020 Governor Baker issued an emergency order requiring all employers that do not provide COVID-19 Essential Services to close their physical workplaces and facilities to workers, customers, and the public. The Governor has extended these emergency closure orders until May 4, 2020. The Commission has voted to extend the closure of casinos to align with Governor Baker's orders.

In response to the changing environment, MGC staff has prepared a series of recommendations for spending reductions. These recommendations are based in sound fiscal policy and focus on: stopping projects that have a natural stop point, not beginning projects that do not have the necessary resources available to start, and reducing budgets where spending most likely cannot happen. The majority of these initiatives represent reduced spending levels for the months of April, May, and June. Therefore, if facilities open and business is resumed, the full savings may not be realized. The total amounts of spending reductions identified are summarized below, and total ~\$1.5M:

<b>Account</b>	<b>Name</b>	<b>Object Class</b>	<b>Description</b>	<b>Amount</b>
10500001	Gaming Control Fund	AA	Pulled Postings	144,936.80
		BB	Travel Reductions--T Passes and Mileage	36,196.50
		CC	Contract Employees	60,000.00
		DD	Fringe and Payroll Taxes on Pulled Postings	55,061.49
		EE	Indirect on pulled postings, parking, credit cards, training and travel	96,741.46
		HH	Outside Counsel Litigation, Grant Database, Reports and Media	294,900.00
		JJ	GEU OT (April), Catalant/Jira for Grant Database	159,000.00
		UU	LMS, Moving to Cloud, Other IT contracts	423,260.51
	<b>Subtotal Gaming</b>			<b>1,270,096.76</b>
40001101	Public Health Trust Fund	HH	GameSense Operations	186,991.00
		PP	Research Agenda Savings	63,000.00
	<b>Subtotal PHTF</b>			<b>249,991.00</b>
	<b>Total Reductions</b>			<b>1,520,087.76</b>



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In addition to the identified reductions above, staff has included: the ~\$833K expenses incurred for the independent monitor through the end of the third quarter, as well as a corresponding anticipated offsetting revenue figure. Encore Boston Harbor, a licensee, is directly responsible for these costs.

The net impact of the recommendations for spending increases and decreases, for the second and third quarter of FY20, result in: a projected savings of \$427K for the Gaming Control Fund and \$268.69K for the Public Health Trust Fund.

### **Revenue Update:**

The FY20 Budget for the Gaming Control Fund relies on fees from licensing and slots of ~\$4.26M, and an assessment of \$28.39M, to fund the spending needs. Licensing fees have already exceeded initial projections for FY20 by \$220K. Staff has added a line for direct billing for any increased security costs related to the GEU for Encore Boston Harbor, which has resulted in \$118.5K increase in revenue through the end of March. In addition, the MGC received approximately \$449K in final payments, related to the on-going Wynn suitability investigation that was completed last fiscal year. We have also received ~\$220K in vendor primary billings, in excess of the initial fee. The Commonwealth operates on a modified cash basis of accounting; therefore, the revenue for the Wynn Suitability review, as well as the vendor primary billings, is realized when received. In addition, the MGC has added a line for ~\$833K, as an offset the spending for the Independent Monitoring contract. The net impact of revenue adjustments for the second and third quarters results in a \$1.7M increase to projected revenues for the MGC.

The combined impact of the decrease in spending and increase in revenues is a projected surplus of \$2.15M in the Gaming Control Fund.

### **Assessment on Licensees:**

205 CMR 121.00 describes how the Commission shall assess its operational costs on casino licensees, including: any increases or decreases that are the result of over or under spending. 205 CMR 121.05, paragraph (2) specifically states:

“(2) In the event that actual revenues exceed actual costs for a given fiscal year, the commission, in its sole discretion may either return any excess revenue (Excess Assessment) in the same manner in which Excess Assessment was assessed or the commission may credit such Excess Assessment to the Annual Assessment due for the next fiscal year.”

The Commission has determined that once a year, on or about January 1, it will revise the number of gaming positions utilized for determining licensee’s proportional share of the assessment and use that percentage for the billing of the second half of the annual assessment. The second tables below show reported gaming positions at each facility as of January 1, 2020. The change in gaming positions impacts each licensee’s proportional share of the second half assessment.

The third table below demonstrates the combined impact of a projected surplus of \$2.15M in the Gaming Control Fund, and how it would effect licensee assessments for the second half of 2020. As of the writing of this memorandum, the Commission has billed for all four quarters and received full assessments from each licensee for three quarters, which left an outstanding amount of ~\$7.1M for the Gaming Control Fund assessment and \$1.25M for the Public Health Trust Fund.



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Gaming Control Fund Assessment						
Licensee	FY20 Percentage of Gaming Positions First 1/2 Year	FY20 Initial Annual Assessment	FY19 Percentage of Assessment	FY19 Reversion	Revised FY20 Assessment	First 1/2 Year Portion
MGM	32.57%	9,716,641.12	37.80%	544,009.17	9,172,631.95	4,586,315.98
Encore	52.92%	15,786,695.47	46.93%	675,477.23	15,111,218.24	7,555,609.12
Penn	14.51%	4,329,711.86	15.27%	219,816.86	4,109,895.00	2,054,947.50
		29,833,048.45		1,439,303.26	28,393,745.19	14,196,872.60
January 1, 2020 Gaming Positions						
Licensee	Slots	Table Games	Table Gaming Positions*	Total Gaming Positions*	Percentage of Gaming Positions	
MGM	1,791	102	756	2,547	30.20%	
Encore	2,829	241	1,728	4,557	54.02%	
Penn	1,250	-	-	1,331	15.78%	
<b>TOTAL</b>	<b>5,870</b>	<b>343</b>	<b>2,484</b>	<b>8,435</b>	<b>100.00%</b>	
MGM	79 tables-526 seats Poker 23 tables-230 seats (10/table)					
Encore	167 tables-1062 seats Poker 74 tables-666 seats (9/table)					
Licensee	FY20 Percentage of Gaming Positions Second 1/2 Year	FY20 Remaining Assessment	FY20 Projected Surplus Revenue	Revised FY20 Second Half Assessment		
MGM	30.20%	4,286,832.78	\$651,818.90	3,635,013.88		
Encore	54.02%	7,669,845.69	\$1,166,210.73	6,503,634.96		
Penn	15.78%	2,240,194.12	\$340,624.64	1,899,569.48		
		14,196,872.60	\$2,158,654.27	12,038,218.33		
Public Health Trust Fund Assessment						
Licensee	FY20 Percentage of Gaming Positions First 1/2 Year	FY20 First 1/2 Assessment	1/2 Year Portion	FY20 Percentage of Gaming Positions Second 1/2 Year	Second 1/2 Year Portion	
MGM	32.57%	1,628,502.89	814,251.44	30.20%	754,890.34	
Encore	52.92%	2,645,840.15	1,322,920.07	54.02%	1,350,622.41	
Penn	14.51%	725,656.96	362,828.48	15.78%	394,487.26	
		5,000,000.00	2,500,000.00		2,500,000.00	

### Options:

On March 26, 2020 MGC staff conducted a call with representatives from Plainridge Park Casino (PPC), MGM Springfield, and Encore Boston Harbor (EBH) (referred to as licensees as a whole). During the call the licensees asked MGC staff to consider any options that would assist in cash flow during the period where the licensees are unable to generate any revenue due to closure of the facilities. One of the main discussion points that pertain to this budget presentation was the timing of payment for the assessments. The licensees requested the possibility to pay their final assessment for the Gaming Control Fund on a monthly basis, rather than the full quarterly amount at once and a delay and/or possible reprieve from paying the final assessment for the Public Health Trust Fund



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205 CMR 121 provides sole discretion to the Commission to: approve or deny any budget recommendations from staff, as well as any schedule for timing of payment of assessments. The details of staff recommendations for budget adjustments, in both the second and third quarters, can be found in Attachments B and C to this document.

Given the information presented today, the Commission has multiple options on how to proceed. Staff has laid out multiple possible options below:

***Spending and Revenue Options***

- Accept all spending recommendations and revenue adjustments which would result in a projected \$2.15M surplus
- Accept some or all spending recommendations and revenue adjustments which likely would result in a projected surplus
- Use the projected surplus for other initiatives
- Accept all spending recommendations and require staff to find more spending reductions
- Continue looking for budget adjustments

***Gaming Control Fund Assessment Options***

- Credit the \$2.15M surplus to the FY2020 Gaming Control Fund licensee assessment:
  - Adjust the final quarterly billing for the Gaming Control Fund to be billed over three equal installments as long as the facilities remain closed
  - Require licensees to pay the revised amount all at once
- Continue to bill the full amount of the remaining assessment to licensees:
  - Bill the full amount in three equal monthly installments
  - Require licensees to pay the full quarterly assessment for the Gaming Control Fund at once

***Public Health Trust Fund Assessment Options***

- Require licensees to pay the full amount of the last quarterly PHTF assessment at once
- Continue to assess for the PHTF on a monthly basis in three equal installments as long as the facilities remain closed
- Defer payment of the final quarterly PHTF assessment to a later date

***Recommendation:***

The MGC's Office of Finance is recommending the following combination of options:

- Accept all spending recommendations and revenue adjustments which would result in a projected \$2.15M surplus
- Continue looking for budget adjustments
- Credit the \$2.15M surplus to the FY2020 Gaming Control Fund licensee assessment
  - Adjust the final quarterly billing for the Gaming Control Fund to be billed over three equal installments as long as the facilities remain closed
- Continue to assess for the PHTF on a monthly basis in three equal installments as long as the facilities remain closed



It is the opinion of the CFAO that this combination balances the difficulty licensees are experiencing regarding cash flow, while ensuring they are compliant with their obligations under 205 CMR 121 to: pay both the annual operating costs of the Gaming Control Fund, as well as the statutorily required minimum assessment of \$5M for the PHTF.

**Conclusion:**

MGC Staff seeks either approval of the recommendation above or a vote to enact any alternate combination of options.

Attachment:   A FY20 Actuals Spending and Revenue as of 4/1/2020  
                  B QRY--Step 16A Budget Amendment Requests 2nd Qtr by Obj Class  
                  C QRY--Step 16A Budget Amendment Requests 3rd Qtr by Obj Class



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