

Legislative
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STANDING COMMITTEE ON PUBLIC ACCOUNTS

CHARITABLE GAMING

(Section 3.03, 2005 Annual Report of the Auditor General of Ontario)

2nd Session, 38th Parliament
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The Honourable Michael A. Brown, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Public Accounts has the honour to present its Report and commends it to the House.

A handwritten signature in black ink that reads "Norm. Sterling".

Norman Sterling, MPP
Chair of the Committee

Queen's Park
November 2006

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2nd Session, 38th Parliament

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CONTENTS

	2
PREAMBLE	1
Acknowledgements	1
1. AUDIT OBJECTIVES AND FINDINGS	1
2. COMMITTEE REQUEST FOR MINISTRY RESPONSE	2
2.1. Committee Recommendations	2
OBSERVATIONS AND RECOMMENDATIONS	4
3. COMMISSION ROLES AND RESPONSIBILITIES	4
Ministry Response and Update	4
4. MUNICIPAL LICENSING ACTIVITIES AND BEST PRACTICES	6
Ministry Response and Update	6
5. CONTROLS OVER BREAK-OPEN TICKETS	7
Ministry Response and Update	7
6. CHARITABLE GAMING INSPECTIONS AND ENFORCEMENT	8
Ministry Response and Update	8
7. INFORMATION TECHNOLOGY PROJECT	10
Ministry Response and Update	11
NOTES	13

PREAMBLE

The Standing Committee on Public Accounts held hearings on the Auditor General's report on the Charitable Gaming activities of the Ministry of Government Services (Section 3.03 of the *2005 Annual Report*) on April 13, 2006. The Committee fully endorsed the Auditor General's findings and recommendations.

This report consists of overview information drawn from the Auditor's *2005 Annual Report*, updated information provided by the Ministry of Government Services in 2006, followed by a summary of the hearings, and as appropriate, the Committee's recommendations.

Acknowledgements

The Standing Committee on Public Accounts would like to thank the Deputy Minister, Government Services, Ministry officials and the Chief Executive Officer of the Alcohol and Gaming Commission of Ontario for their attendance at these hearings, and for providing supplementary information on a timely basis. The Committee has acknowledged the assistance provided by the Office of the Auditor General, the Clerk of the Committee, and the Research Officer from the Ontario Legislative Library's Research and Information Services at the hearings and during the subsequent deliberations.

1. AUDIT OBJECTIVES AND FINDINGS

Ontario is one of the largest charitable gaming markets in North America. The Alcohol and Gaming Commission of Ontario (AGCO or the Commission) estimates that approximately \$1.6 billion was wagered in 2003 by the public on charitable gaming activities. Charitable gaming activities include bingo events, sales of break-open tickets, and local and province-wide raffles.

The Province has granted municipalities the authority to issue licences. They issue about 43,000 licences annually for smaller local lottery events or close to 95% of the charitable gaming licences issued in Ontario.

The Commission did not believe it has the legislative authority to oversee municipal licensing activities and, therefore, had not established any processes for doing so. However, the Auditor General concluded the Commission's interpretation of its legislative authority was overly narrow. Without appropriate oversight of and co-ordination with municipalities' licensing activities, the Commission has no assurance that charitable organizations are receiving the proceeds from gaming that they are entitled to and that those proceeds are being used for charitable purposes.

In addition, the Office of the Auditor General noted several areas where the Commission-delivered regulatory activities required strengthening.

- The Commission has generally established good registration requirements to assess the character, financial history, and competence of the key players in the charitable gaming industry. However, it did not ensure that these requirements were consistently met, nor did it periodically verify whether registrants adhered to the terms and conditions of registration.
- Procedures were often not followed with respect to assessing an organization's eligibility for a licence, ensuring that lottery proceeds were used for approved charitable purposes, and verifying that required terms and conditions of a licence were met. New licences were still provided to organizations for subsequent lottery events without evidence of any follow-up on missing documents.
- The Commission had not established formal policies for inspections and enforcement such as using a risk-based approach to inspections.
- In 1997, Management Board provided funding to strengthen controls and ongoing funding to hire six staff to monitor and audit the production and distribution of break-open tickets. However, many of the key controls and the six dedicated staff approved were never put in place.

The Office of the Auditor General also recommended ensuring that the Commission follows prudent project management practices, including the requirements of the Management Board directives governing information technology projects and use of consultants. In addition, it was recommended that the Commission develop more comprehensive indicators for measuring and reporting on its performance with respect to charitable gaming and include municipalities' contribution to regulating gaming.

2. COMMITTEE REQUEST FOR MINISTRY RESPONSE

The Committee requests that the Ministry of Government Services provide the Committee Clerk with a written response within 120 calendar days of the tabling of this report with the Speaker of the Legislative Assembly, unless otherwise specified in a recommendation.

2.1. Committee Recommendations

1. The Alcohol and Gaming Commission of Ontario should expedite its review of the Order in Council and recommend, if necessary, that changes be made to the Order in Council to ensure the Commission has the authority to oversee municipal licensing activities.

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 30 days of the date of tabling this report in the Legislature.

2. The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts on the establishment of annual targets for the number of training sessions and steps taken

to conduct a periodic user satisfaction survey to gauge the effectiveness of the support activities being provided.

3 .The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts on the Commission's development of a compliance strategy with an implementation timetable to assist municipalities in overseeing charitable gaming activities.

4. The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts whether break-open ticket manufacturers have provided the required audit and internal control assurances.

5. The Alcohol and Gaming Commission of Ontario implement a risk-based inspection strategy within the next six months and provide the Standing Committee on Public Accounts with a progress report on the status of the implementation of this strategy.

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within six months of the date of tabling this report in the Legislature.

6. The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts with a progress report on the replacement of its legacy information systems with a new fully integrated information system. The following information is required in this regard:

- the project's business case, including total estimated project costs and timelines through to completion;**
- current status of the project; and**
- confirmation of compliance with the requirements of Management Board's directives and guidelines.**

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 30 days of the date of tabling this report in the Legislature.

OBSERVATIONS AND RECOMMENDATIONS

3. COMMISSION ROLES AND RESPONSIBILITIES

The Province and municipalities are partners in licensing charitable gaming activities. However, the Commission believed that, beyond establishing the terms and conditions of licensing and providing municipalities with directions, it had no obligation and legislative authority to oversee municipal lottery licensing programs.

The Auditor believed this interpretation of the Commission's legislative authority is overly narrow. Municipalities issue close to 95% of gaming licences. Without appropriate oversight of and co-ordination with their licensing activities, the Commission cannot effectively fulfill its mandate.

The Minister of Government Services is ultimately accountable for the administration of gaming legislation and for the Commission. The Commission provides a critical link in helping the Minister fulfill his/her mandate. The governing Order-in-Council provides the Commission with substantial authority for ensuring that all gaming licences meet minimum standards. It does not limit the Commission in its ability to oversee and to request information pertaining to municipalities' licensing operations. Given that the Commission establishes policies and procedures, it has the authority to ensure that those policies and procedures are being adhered to.

Ministry Response and Update

The Commission reported that it is guided by its interpretation of Order-in-Council 2688/93, as amended, in its relationship with municipalities. This interpretation is one that leaves a margin for municipal councils' autonomy and decision-making. The AGCO is currently working on defining appropriate roles between itself and municipalities via a review of the existing Order-in-Council. The review is to be conducted between now and the end of fiscal 2006/07.

Committee Hearings

In November 2004, the AGCO initiated a complete review of the regulatory framework with a view to modernize the charitable gaming industry. One of the Commission's goals was to reduce the regulatory burden on charities while maintaining high standards of accountability, honesty and integrity. It was seen as important to ensure that charity volunteers could meet any administrative or reporting requirements the Commission would impose.¹

The Ministry noted that the AGCO's interpretation of its role with municipalities is in keeping with the government's vision vis-à-vis municipalities, which is "to delegate authority while retaining a failsafe role."² The Deputy Minister acknowledged that the current Order-in-Council requires revision in order to facilitate such a delegation of authority.

The Ministry indicated that the terms of reference for the review of the existing Order-in-Council is quite general in nature, but it is intended to respond to each of the recommendations of the Auditor General with respect to municipal oversight.³

The Ministry also noted that while the current Order-in-Council allows the AGCO to prescribe the form of certain licensing documents that municipalities use, it does not set up a regulatory regime between the AGCO and the municipality like that in the *Consumer Protection Act*. For example, there are no investigative powers provided to Commission authorities, and they do not have the ability to require the production of books and records from municipalities without a search warrant. The review of the Order-in-Council is going to have to look at the advice and the recommendations of the Auditor General, and the extent to which municipalities have control within their own operations that would go to that direction.

Ensuring that municipalities enforce the licensing regime would require additional powers in the Order-in-Council. Whether the Commission could supply investigative authorities in order to require the production of books and records in an Order-in-Council is not certain. Such a change may require an amendment to the *Gaming Control Act*. This concern could also apply to the ability to suspend or revoke a municipality's authority to issue a licence.⁴The Ministry noted that the broader policy question is to what extent the Commission can rely on the checks and balances that are supplied in the *Municipal Act* and in municipal legislation.

Committee Recommendation

The Committee emphasized the importance of clarifying the roles and responsibilities between the AGCO and municipalities. Furthermore, the Committee concluded that the AGCO should have oversight responsibilities over municipal licensing activities, and is of the opinion that the resolution of this matter is a priority.

The Committee therefore recommends that:

- 1. The Alcohol and Gaming Commission of Ontario should expedite its review of the Order in Council and recommend, if necessary, that changes be made to the Order in Council to ensure the Commission has the authority to oversee municipal licensing activities.**

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 30 days of the date of tabling this report in the Legislature.

4. MUNICIPAL LICENSING ACTIVITIES AND BEST PRACTICES

Municipal licensing operations varied significantly with regard to the training provided to charitable organizations, procedures for verification of proceeds, and inspection and enforcement activities. The licensing policies and procedures provided to municipalities were outdated.

Ministry Response and Update

The Commission has taken several steps to improve its support for municipal licensing activities, including:

- establishing strategic working groups for the bingo and break-open ticket sectors of the charitable gaming market (the strategic working groups include representation from municipalities through the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO));
- releasing a revised Lottery Licensing Policy Manual in May 2005 that includes all changes in policy to early 2005 (a series of seminars have been scheduled in co-operation with AMCTO for municipal licensing officers);
- providing ongoing training on topics specified by individual municipalities or groups of municipalities; and
- providing ongoing assistance by telephone on a day-to-day basis.

Committee Hearings

The Commission indicated that it has updated the lottery policy manual. The manual serves as a guide for municipal councils on how to assess the eligibility of a charity, what is an appropriate use of proceeds and what kind of processes should be put in place when issuing a lottery licence.⁵

The Commission conducted 10 extensive training sessions with AMCTO and it received feedback rating the seminar.⁶ The sessions, which began in September 2005, provided information on the Commission's modernization initiatives and served as a forum for the AGCO to address a number of the Auditor's recommendations. It reiterated the need for municipalities to verify the validity of registrations for service providers being used by charitable licensees. The Commission noted that over 65% of municipalities attended a recent training session.

The Commission also conducts one-on-one training sessions with municipalities and charities. It conducted about 32 of these between 2004 and April 2006. In 2005, it conducted 10 of the larger training sessions plus eight individual sessions to explain roles and responsibilities. The Commission is in the process of developing a compliance strategy to assist municipalities.⁷ It met with the AMCTO in January 2006 to discuss different ways of further reaching out to municipalities and providing them with the information they need.

Committee Recommendations

The Committee would like the Commission to lend municipalities as much support as possible so that they may effectively oversee charitable gaming activities within their respective jurisdictions.

The Committee therefore recommends that:

2. The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts on the establishment of annual targets for the number of training sessions and steps taken to conduct a periodic user satisfaction survey to gauge the effectiveness of the support activities being provided.

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature.

3 .The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts on the Commission's development of a compliance strategy with an implementation timetable to assist municipalities in overseeing charitable gaming activities.

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature.

5. CONTROLS OVER BREAK-OPEN TICKETS

In 1997, Management Board approved new controls over the production and distribution of break-open tickets. At the time, there were concerns regarding fraudulent activities. Approval was also received to establish a team of Commission staff to negotiate and manage contracts with, monitor the performance of, and audit the functions contracted to break-open tickets suppliers.

In November 1997, the Gaming Control Commission implemented the first of the new controls. However, the remaining key controls were not implemented, the approved dedicated staff were never put in place and procedures for monitoring break-open ticket production and sales were not established.

Ministry Response and Update

The Commission supports the Auditor's recommendation to improve controls over break-open tickets and has already initiated a review of options. The AGCO has prepared an options paper on the development of a central tracking system for break-open tickets as part of a broader strategy to control break open ticket sales.

Committee Hearings

There is clear oversight responsibility and legislative accountability for the commercial sector under the *Gaming Control Act*. The manufacturer, the distributor, and the seller of break-open tickets are all regulated under this Act; however, it does not apply to municipalities. The Commission does not register charities under the *Gaming Control Act*, although it registers the commercial private sector operators.⁸

The AGCO changed the nature of its relationship with break-open ticket manufacturers in May 2005 by imposing terms and conditions on their licences. Two of the requirements are an audit requirement and the introduction of control objectives. The AGCO set five broad control objectives over the production of the tickets including how the tickets are stored and the internal practices of the manufacturing plant.⁹ Manufacturers are now required to show the Commission how they are meeting control objectives through an independent assessment.

Committee Recommendation

The Committee therefore recommends that:

4. The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts whether break-open ticket manufacturers have provided the required audit and internal control assurances.

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 120 days of the date of tabling this report in the Legislature.

6. CHARITABLE GAMING INSPECTIONS AND ENFORCEMENT

The Commission did not have formal policies for managing charitable gaming inspection activities. Therefore little direction was available to OPP officers and liquor licence inspectors on the objectives, parameters and procedures for inspections. According to the Auditor, improvements could include the following:

- Liquor licence inspectors inspected break-open ticket sellers on their own initiative and had quotas of only two inspections per month. The Commission had not worked with the OPP to develop a consistent approach for bingo inspections.
- Inspections of break-open ticket sellers by inspectors during fiscal 2004/05 identified a non-compliance rate of about 60%. Common violations included financial records not being kept, winning tickets not defaced to prevent their reuse, and the tickets available for sale not corresponding to the licence issued.
- Inspections of bingo operators and break-open ticket sellers do not include reviewing accounting records to ensure that all sales and ticket inventories were accounted for and that sellers' commissions were within prescribed maximums.
- No inspection programs or audits are established for the two bingo paper and break-open ticket print manufacturers and break-open ticket agents.

Municipalities play a key role in monitoring charitable organizations through the licensing process. However, the Commission did not provide municipalities with feedback on its inspections. Such information would help municipalities decide in the issuing of a licence and in monitoring gaming equipment and services suppliers.

Ministry Response and Update

The AGCO has developed a corporate risk-based inspection strategy. Beginning in April 2006, it is being implemented in stages. In addition, information sharing between municipalities and the AGCO is being addressed with ongoing consultations as part of the Modernization of Charitable Gaming project.

The Commission's inspections and enforcement organizational structure was reviewed in the winter of 2004-05, and a new organizational structure was put in place in June 2005 to address issues with respect to the Commission's mandate.

The Commission indicated that it will continue to build on its risk-based enforcement and inspection strategy, not only within charitable gaming, but also within liquor enforcement and commercial gaming. The Auditor General's recommendations are considered as part of the implementation of the new organizational structure and development of an enforcement and inspection strategy.

Committee Hearings

The Commission investigated 25 complaints of misuse of lottery funds between 2004 and April 2006. Generally, most of the investigations in charitable gaming relate to a charity misusing funds or misappropriating funds. These incidents are generally investigated by the municipality. Many of the larger municipalities conduct their own investigations, but some of the smaller municipalities, particularly if it involves a potential criminal offence, have asked the AGCO to intervene and assist them.¹⁰

The Commission has six lottery licensing officers and a manager. From an inspection and investigation perspective, that responsibility is shared between the liquor side of the Commission and the charitable gaming side. Many of the Commission's liquor inspectors take up enforcement – there are about 10 to 14 individuals on enforcement and six on licensing.¹¹

The Commission looks at risk from a corporate perspective, and then focuses on each one of its business lines. There are no public safety issues with charitable gaming. If a liquor inspector visits a municipality, public safety in bars is paramount and will take a higher priority than the inspection of a break-open ticket seller. The deployment of resources is based on corporate risks, with public safety at the forefront of priorities. Charitable gaming inspections are done where possible.¹²

The Commission tries to balance accountability, oversight, and the operating needs of charities. Some charities, because they are accountable under the *Charities Accounting Act* and Revenue Canada, may not have to produce onerous documents because of these other oversight bodies.¹³ Also, the Commission is assessing whether it should require compliance reports only and reduce the paperwork from charities that raise under \$10,000 a year because the overall risk in these cases is lower. It could then focus on charities that make \$100,000 or more. The AGCO is currently discussing this issue with charities and municipalities.¹⁴

Committee Recommendation

The Committee concluded that the establishment of a risk-based inspection strategy should be a priority to ensure the integrity of the charitable gaming industry.

The Committee therefore recommends that:

5. The Alcohol and Gaming Commission of Ontario implement a risk-based inspection strategy within the next six months and provide the Standing Committee on Public Accounts with a progress report on the status of the implementation of this strategy.

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within six months of the date of tabling this report in the Legislature.

7. INFORMATION TECHNOLOGY PROJECT

The Commission concluded that the two computer systems it uses for licensing and registration should be replaced. Since 2003, the Commission has been planning an integrated licensing and registration system. In January 2005, the Commission initiated a project to replace the lottery licensing system.

There was no business case established for the project that would meet Management Board directives. Specifically, reviewed project documents did not address:

- total one-time costs and ongoing costs of maintenance of the new system;
- risk assessment to explain project exposure to disruption or reduction in services to the public and to cost overruns; and
- project benefits quantified in monetary and non-monetary terms.

In addition, there were several concerns regarding the ongoing management of the project. Project weekly progress reports indicated that project scope, costs, schedule, and changes were all on target. However, these reports did not specify target completion dates or costs for each implementation phase. Contrary to directive requirements, there was no internal auditor for the project. The use of a consultant on this project did not conform to government policies and practices and to the Management Board Procurement Directive for Consulting Services. The Auditor noted the following:

- The consultant was selected from an internal vendor-of-record arrangement established by the Commission in October 2003. One contract — for a fixed price of \$60,000 — had been signed for this assignment. The consultant was paid a total of \$286,000.
- The consultant still had unfinished work at the time of the last invoice. It seems that the consultant was fully paid before key deliverables were received, contrary to payment practices required by the directive.
- The consultant invoices did not provide a breakdown of names and hourly rates of the employees performing the service and details of the work

performed relative to the hours spent. The rates charged by the consultant did not accord with the rates authorized in the October 2003 agreement. For instance, an hourly rate of \$440 was charged for one employee when the authorized rate was \$375 per hour, resulting in an overpayment of \$3,120.

Ministry Response and Update

The decision to replace the lottery licensing system was made by senior management after two years of study and review. At the time of this particular information technology project, the limited internal audit resources were focused on projects that were deemed to be of higher risk. While senior management was satisfied that the various documents and analysis provided a comprehensive assessment for the decision on a replacement, it acknowledges that the process did not conform to the requirements of Management Board of Cabinet's directives and that controls need to be strengthened for consulting engagements.

Senior management will invite internal audit at appropriate points in projects and will ensure that, in future, a process that follows directive requirements will be used for all information technology projects and the use of consultants.

Committee Hearings

The AGCO reiterated that the Commission has "established terms of reference with ministry internal audit to . . . ensure compliance with government directives."¹⁵

The Commission explained that it had three legacy systems: one for liquor registration, one for gaming registration and one for lottery licensing. It noted that the three computer systems had relatively old infrastructures and could not be integrated. Portions of the lottery system database had been corrupted and it could not be repaired. The Commission decided that it had to invest immediately in one comprehensive system that could deal with all three lines of business.¹⁶

The consultant was directed to develop a system with sufficient flexibility, that met government standards and that could be built upon later including the addition of the satellite pieces of gaming and liquor.¹⁷

The Commission noted that while it is true that it did pay the higher rate to the consultant (\$440 versus \$375), the overall amount of hours that were allocated to design this project were higher than those actually paid. The consultants put in \$292,000 worth of work, because it used more of the more senior consultants and less of the less experienced and the lower-paid consultants. The Commission was billed \$286,000 and thus concluded that overall there was value for money.¹⁸

In July of 2005, the Ministry of Government Services released a report on large-scale IT projects. All 16 recommendations contained in that report are to be implemented in 2006. They include better front-end planning; better "gating" in an IT project, where opportunities to pause and reflect on progress of a particular project are built in; score cards to evaluate value for money throughout the project, not just at the end of a project so as to evaluate deliverables so that there is a chance to calibrate and recalibrate the management of a project.¹⁹ The

Ministry's audit committee has been made aware of current IT projects and internal audit is engaged in them.²⁰

Committee Recommendation

The Committee therefore recommends that:

6. The Alcohol and Gaming Commission of Ontario report to the Standing Committee on Public Accounts with a progress report on the replacement of its legacy information systems with a new fully integrated information system. The following information is required in this regard:

- **the project's business case, including total estimated project costs and timelines through to completion;**
- **current status of the project; and**
- **confirmation of compliance with the requirements of Management Board's directives and guidelines.**

The Committee requests that a written response to this recommendation be provided to the Committee Clerk within 30 days of the date of tabling this report in the Legislature.

NOTES

¹ Legislative Assembly of Ontario, *Official Report of Debates*, Hansard, Standing Committee on Public Accounts, 38th Parliament, 2nd Session, 13 April 2006, P-109.

² *Ibid.*, P-108.

³ *Ibid.*, P-116.

⁴ *Ibid.*, P-116.

⁵ *Ibid.*, P-112.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*, P-117.

⁹ *Ibid.*, P-124.

¹⁰ *Ibid.*, P-119.

¹¹ *Ibid.*, P-115.

¹² *Ibid.*, P-118.

¹³ *Ibid.*, P-119.

¹⁴ *Ibid.*

¹⁵ *Ibid.*, P-109.

¹⁶ *Ibid.*, P-121.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*, P-122.

²⁰ *Ibid.*