

## **Riverboat Gaming in Louisiana—Changes on the Horizon?**

by Ronnie Jones, Louisiana Gaming Control Board Chairman

*“Twenty years from now you will be more disappointed by the things you didn’t do than by the ones you did do. So throw off the bowlines. Sail away from the safe harbor. Catch the trade winds in your sails.”* Mark Twain

New Orleans area state Representative Francis Heitmeier fully understood Mark Twain’s admonition as the 1991 regular legislative session began. Well respected for his ability to read the ever shifting political landscape, Heitmeier knew that Louisiana citizens had approved a constitutional amendment permitting a state lottery the previous year. He knew that gambling initiatives were being approved outside of Vegas and Atlantic City. In recent years casinos in Iowa, Illinois and even our conservative neighbors to the east in Mississippi had been approved. He knew the mood of Louisiana’s populace had slowly shifted with respect to legalized gambling and among the gathering storm clouds of a revenue-lean budget he saw a break in the clouds. He saw opportunity. The allegorical implications of Twain’s quote would not have been lost on Heitmeier. Riverboat gaming bills had previously been introduced before his colleagues in prior sessions only to fail. The failures were mostly attributable to the good versus evil argument. But in the oppressive heat of the 1991 Louisiana summer, Representative Heitmeier was looking for the trade winds to fill his legislative sails.

There were plenty of issues to make legislators uncomfortable in that summer’s session. The recurrent debate over abortion was center stage as was the deeply personal topic of term limits. But it was the state’s looming fiscal problems which confounded and frustrated legislators the most. While the national economy had been gradually improving Louisiana was now late in joining the recovery. Unemployment was hovering around 14% in the state and at a time when there were increasing demands for state services, services were being scaled back. Every governor since Huey Long has blamed Huey for the states over dependence on the oil and gas industry. Whether deserving of the blame or not there’s no escaping the fact that the Louisiana economy was insufficiently diversified as the 1990s dawned to insulate it from geopolitical and financial factors beyond the state’s control. Louisiana’s dependence on the oil and gas industry and allied services was an asset in boom times but when global energy prices became more volatile in the latter part of the 1980s the residual impact on the oil patch rippled throughout the state.

As they labored to find a way to fund the most basic of state services with a diminished cash flow, the legislature and Governor Charles “Buddy” Roemer knew there was very little appetite for raising taxes. Ironically Roemer had strolled into the governor’s mansion with a well-worn pledge to “scrub the budget.” In the first three years of his one and only term, he had done just that by shuttering everything from State Police Troop facilities to health clinics. He sold off state airplanes and equipment. Nevertheless, there still wasn’t enough money to go around. In 1991 Louisiana’s highway system was once again ranked as the country’s worst by a national trucker’s magazine. And despite Roemer’s early successes, his efforts to enhance the state’s education system only resulted in incremental improvement; overall it was a bad report card for schools and the governor.

Heitmeier knew he had something of history on his side. He recognized that folks from Louisiana liked to gamble. They always had. Lest we forget, it was Louisiana that brought the country its worst gambling scandal in history in the form of the Louisiana State Lottery Company. First chartered in 1868 it was nicknamed the Golden Octopus for its reach into virtually every other state. Headquartered in Louisiana, it sold 90% of its tickets to residents outside the state's boundaries. Not surprisingly its operation was corrupt from the outset. It was profitable not only for the operators and but it was just as lucrative for the politicians on the payroll. It was so successful that extra train cars had to be added to move tickets and money in and out of the New Orleans-based offices. After 22 years and facing increasing political and social pressure the operation moved offshore and outside the reach of federal authorities.

Many of those serving in the legislature in 1991 could remember the prevalence of illegal gambling back in their home areas while growing up. Gambling halls and casinos were so prevalent in many of the parishes when Governor Bob Kennon took office in 1952 that he enlisted the help of his newly appointed superintendent of State Police to clean things up. Kennon, like Roemer, ran on a reform ticket but he soon discovered that the state's citizens only wanted so much reform.

New Orleans area businessman Francis Grevemberg had been appointed head of State Police at the urging of some of the Kennon's supporters. Grevemberg had an impeccable pedigree including a distinguished and highly decorated military career (he earned a battlefield promotion from General George Patton). When Governor Kennon told the colonel that he wanted illegal gambling brought under control, Grevemberg and his troopers set out to accomplish the assigned mission. In less than four years State Police conducted more than 800 raids and confiscated in excess of 8,000 illegal slot machines. While popular with the state's newspapers and churches, local politicians were less enamored with Grevemberg's work. When the colonel left State Police to run an unsuccessful campaign for governor he knew that illegal gambling had not been eliminated, it had only been displaced and forced further into the shadows.

Prior to his death, Colonel Grevemberg and I developed a great friendship. He told me that he was never really anti-gambling. Rather, he insisted, gambling at the time was illegal and his job was to enforce the law. He believed that gambling could be run like any legitimate business if properly licensed, regulated and controlled.

Such was Representative Heitmeier's proposal before a skeptical legislature. Even given the dire financial situation, it was not an easy sell. Legislative proponents of gaming understood the reticence of some of their colleagues. They knew they had to package the product in a way that made it attractive to the state's citizens. Perhaps more importantly in the process they had to provide fellow legislators with political cover. Gambling lobbyists had to pivot from the good versus evil argument to one of economic development. This had to be about jobs and trickle down opportunities. The strategy the proponents had settled on was a template used in other jurisdictions—riverboats. Channeling Mark Twain again, it was left to Heitmeier and his co-sponsors to paint a romanticized picture of gaming—reminiscent of hoop skirts, moss draped trees and the genteel old South.

Many of the opponents of gambling would never be swayed to legalize “the despicable and addictive vice” no matter the lure of jobs or economic prosperity. They would be “no” votes regardless. But there were some legislators who were not predisposed one way or the other. They had no hardened position on the proposal. So as to ensure passage and convince those in the middle, bill sponsors promised that the Louisiana State Police would be designated as the chief licensing and regulatory arm of the state. At several opportunities during the sometimes contentious debate, State Police representatives testified in committee hearings that, *if properly funded and staffed*, the agency was up to the task of regulation.

What the legislators initially envisioned and finally proposed translated into legislative intent and statute. “A riverboat casino would be a paddlewheel-driven vessel with a minimum length of 150 feet and of such a type and design so as to replicate, as nearly as practicable, historic Louisiana river-borne steamboat passenger vessels of the nineteenth century era.” And they had to be sufficient in design and propulsion that they could navigate the authorized navigable waterways of the state. The deal had been struck and the votes were cast.

Although Heitmeier had found his trade winds and riverboat gaming had been approved there were troubled waters ahead. The legislature limited the state’s new casino market to 15 licenses and, whether inadvertently or intentionally, they established a Balkanized system for accepting, reviewing and issuing licenses. What Governor Roemer had supported and helped push through the legislature was left to his successor, Governor Edwin Edwards, to implement. Those nascent years have been variously described by participants and observers in a number of ways. Perhaps the most accurate description from my view on the inside was that it was a slow motion train wreck.

First came the convoluted licensing process. The law seemed to be clear to State Police administrators who believed that the legislative instrument had delegated to them the responsibility for reviewing license applicants and then awarding licenses to those most deserving. Others, however, countered that was an oversimplification of legislative intent. Never mind that the language was straightforward and clear. The law had also created a Riverboat Gaming Commission, and its political appointees were not about to permit a bunch of “traffic cops” to make such weighty decisions. And so it came to pass that the process was hijacked before it really got started.

The Commission created, with questionable legal authority, something called a Certificate of Preliminary Approval for applicants they viewed as most deserving of a license. In so doing the Commission created an A-list of preferred licensees before State Police could even finish the review process. It should surprise no one that while many national players in the industry were shut out of the licensing process, those with local connections and consultants seemed to be given preferential and more favorable treatment. The dozens of applicants who were seeking one of the fifteen licenses found themselves in a legal tug of war between the Commission and State Police. As was very typical of the early years, State Police came out the loser for the most part.

Few in Louisiana were surprised several years later when Edwards was indicted for improperly influencing the licensing process and assisting his friends and associates. Some were paid quite well paid for their counsel and activist roles in facilitating and guiding applicants through to a successful

license award. For his part Edwards had escaped conviction in two previous federal trials and most political observers believed him too smart for federal prosecutors to succeed on this third try. But his luck ran out in 2000. Four years after leaving office Edwards was found guilty on 17 of 26 counts in federal court, the most serious convictions being conspiracy and racketeering. A prominent state senator and one of the appointees to the Riverboat Gaming Commission were acquitted. Edwards' son, Stephen, was convicted on a number of counts for acting as an intermediary between license applicants and state officials.

Despite the disputes that arose between State Police and the Riverboat Gaming Commission and the over-involvement of the state's chief executive and his friends, family and associates, one by one, licenses were awarded. Those properties lucky enough to earn a license scrambled to acquire vessels, execute contracts with dock boards and begin work on land-side infrastructure. One grand opening followed another. Ribbons were cut and local politicians competed to take credit for the anticipated boom to area economies. Jazz bands lead excited customers up gang planks. But what many of the eager gamblers never realized was that they would be on a boat, a boat leaving the dock. A boat from which there was no escape until it had completed its legally required "sailing" requirement. Lost in the exhilaration and anticipation of legalized gambling in the state was the fact that the legislature had not just authorized gaming they had legalized *riverboat* gambling. The collective groan was immediate.

So while the right to legally gamble in Louisiana had finally been approved, it had come with conditions. By law the legislature had required that the riverboat casinos ply the navigable waters to which they were assigned. The operative word there is "ply," as in move around in the water. Boats were required to conduct two-hour cruises away from the dock and, except for 45 minutes before and after the cruise, gambling could be conducted only when the vessel was under way. Operators and patrons alike expressed dismay.

The degree of influence casino operators had over their maritime crews in those early days may never be fully known. But vessel captains throughout the state began to cite weather, water obstacles and intemperate tides as impediments to "sailing". There was no limit to their seeming doomsday maritime imagination. Troopers who were assigned to see that the laws were enforced and the regulations followed found themselves in a fog of authority. They were reluctant to second guess experienced maritime captains. If, for example, the captain asserted that sailing might imperil the vessel or passengers, who were troopers inexperienced in maritime matters to insist otherwise? State prosecutors in at least two areas of the state grew increasingly suspicious of riverboat operators. Grand juries and indictments were promised if State Police didn't carry out their legal responsibilities. The threat of malfeasance charges was sufficient to get everyone's attention.

As an agency, State Police was struggling to fulfill its legal responsibilities, but they were understaffed and underfunded. Legal challenges proliferated. Too often the career civil service attorneys within the department were outmaneuvered by the resources available to the large law firms engaged on behalf of casino operators. Attorneys for the agency were adept and highly experienced in dealing with personnel matters and civil suits arising from fleet crashes. Gaming law, on the other hand, presented very real challenges to the legal staff. Those in charge at State Police found themselves overwhelmed

and besieged on several fronts. They lost more administrative and legal battles in those early months than they won. Too often troopers were summoned to the Governor's mansion where Edwards sought to control more and more of the regulatory process. The superintendent and his personnel were publicly cast as being ill-trained and inappropriately assigned such an important regulatory role by none other than their own boss, Governor Edwards.

But in time, sanity and stability were restored and a moderate retooling of the original law came in 1996 at the direction of Governor Mike Foster. The legislature consolidated regulatory authority into one board and finally lifted the requirement that vessels sail. The boats would be permitted to remain dockside permanently, **but still had to be on water**. Other vestiges of the original law remained in force, such as those limiting the size of the gaming floor and retaining the requirement that each "boat" have an operable paddlewheel. But the changes permitted capital reinvestment into new property designs abandoning the traditional riverboat template that was originally contemplated and required.

The current placement of casino properties in Louisiana creates roughly 4 "regional" markets—New Orleans, Baton Rouge, Lake Charles and Shreveport/Bossier. The predominance of properties in northwest Louisiana was by design and a gaming board acknowledgement of the early potential strength of that market. But nothing lasts forever and the northwest Louisiana market base has begun to erode.

A large proportion of the customer base for the Shreveport/Bossier market had been the Dallas/Ft. Worth metro area. In 1992 tribal gaming in Oklahoma (Texas' neighbor to the north) was populated with mostly small time operations and posed no immediate threat to northwest Louisiana. No one could have predicted the aggressive expansion of tribal casinos in Oklahoma. The Oklahoma Tribal Gaming Association in an annual report for 2016 noted that state now has 114 tribal casino operations and they cite a total economic impact for Oklahoma tribes of \$7.2 billion in annual operations and construction. A short drive up the Interstate from Dallas takes one to Thackerville, Oklahoma and home to WinStar World and Casino Resort with more than one-half million square footage of casino space. Needless to say, the impact to Louisiana's northwest market has been profound. According to the Louisiana State Police, since peaking in 2008 Shreveport/Bossier revenue is down by 18.7% or almost \$159 million. That's a net loss of approximately \$31 million in fees to the state.

Further south, with the opening of the Golden Nugget in Lake Charles in December 2014, all 15 licenses are now in commerce for the first time since Hurricane Katrina. Early reports out of Lake Charles suggest that the Nugget has drawn thousands of new customers from south Texas to southwest Louisiana and has fueled significant growth in the area's customer base. As a result Lake Charles has now surpassed the other riverboat markets in the state in terms of gaming revenue. Southwest Louisiana casino revenue was up in 2016 by 36%.

While the Golden Nugget is no doubt a crown jewel among all Louisiana riverboats, the state has nothing to compare to WinStar. Our properties are considerably smaller and in some cases considerably older. In fact the construction and design of the 15 "boats" runs along a continuum in terms of appearance. At one end we have first generation boats, which are of the classic design contemplated in

the 1991 law. All are multi-level, although gaming is not necessarily conducted on all levels. First generation boats are berthed in a variety of locations including the Mississippi River, the Red River and other canals and lakes. Some are free standing vessels with only a boarding platform connecting to dockside facilities, and the transition from dockside to boat is readily apparent to the patron. Others connect more seamlessly to amenity properties.

At the other end of the continuum is the latest generation of boats which, except for a legally required paddlewheel, do not look much like boats at all. In some locations, one has to actually go looking for the paddlewheel, but the law still requires its existence and troopers have to certify that it is operational. The Golden Nugget, L'Auberge Baton Rouge and Margaritaville are examples of what engineering and architectural innovation have brought to the market. The Golden Nugget, for example, has a cement hull. None of these "boats" are going to be navigating any waterways, but all comply with the law and all rest (at least in part) on water, sometimes sitting inside cofferdams. At such newer casinos, a customer would never know that he or she had actually boarded a boat. In between those two extremes are hybrid vessels, which also come in a variety of designs.

The older first generation boats in particular present their own set of unique challenges for operators. Operators incur substantial costs associated with maintaining vessels such as hull and propulsion system maintenance. Many are required to have captains and other maritime crew available around the clock. There are docking issues, ramp and boarding issues, ventilation issues and silting/river hazards issues. Even the newest generation vessels must comply with many of the costly maritime requirements.

Safety has been and will also be a top priority for regulatory authorities and property owners, and boats present safety issues not associated with land-based facilities. Northwest Louisiana experienced two serious Red River flooding events in 2016 and both events required extensive reconfiguration of boarding platforms at considerable cost to the properties and considerable effort on the part of regulators. Facing potential shut downs in gaming activities, the affected properties made adjustments, acquired the necessary inspections and approvals, and remained open.

Our board is keenly aware of the potential dangers posed by vessels berthed in waterways heavily populated and navigated by industrial traffic. The vulnerability those should concern us all, the legislature included. In a previously published article I noted the dangers posed by river traffic to riverboats by retelling the story of the Bright Field incident. It's worth repeating here.

Twenty years ago month, the 69,000 ton cargo vessel Bright Field was making its way under the Crescent City Connection in New Orleans, when the pilot lost all power to the ship. The choices and control available to the ship's captain were quickly evaporating as the vessel floated virtually out of control. According to a [Times Picayune](#) report of the incident, the captain was "at the helm of a runaway hulk headed straight for a pair of cruise ships -- holding 1,700 passengers combined -- that were moored on the riverfront near a riverboat casino flush with 800 gamblers. Between the cruise ships and the floating casino was the Riverwalk mall, filled with thousands of unsuspecting employees and shoppers." The Riverwalk shopping mall took the hit and although scores were injured, no one died. Of those injured were casino patrons who jumped from the riverboat onto the wharf below.

Louisiana remains as one of the last states which ties gaming to boats. Virtually every other state has abandoned the requirement. Our neighbors to the east made adjustments to their law as far back as 2005. Prior to that, casino properties in Mississippi had to be floating, albeit permissibly on barges, but floating nonetheless. The change in the law permitted casinos to move out of the water, and the law for two coastal counties was further revised after Katrina, authorizing casinos to move 800 feet inland from the mean water line.

Despite the complications for riverboat operators posed by a body of law now more than 25 years old, overall gaming revenues in the state continue to constitute a huge part of the state's economy. Gaming in the state in 2015 generated over \$3.2 billion in revenues and over \$729 million in state and local fees. Those figures are only surpassed by revenues in 2006 and 2008, when they surged during post-Katrina and post-Gustav periods, and the figures for 2015 represent a 58% increase over 2014. Out of all forms of gaming, riverboats constitute the largest percentage of the gaming market in Louisiana and their role as primary contributors to gaming revenue makes their long-term viability and economic potential critical to the future of the state.

We know that the primary reason for legalization of riverboat casinos was economic development and no one can deny that the goal has been accomplished. Riverboat gaming has generated more than \$27 billion in gross revenue and more than \$6 billion in fees for local and state government since 2000. The casinos act as an economic generator for the state providing employment to more than 20,000 individuals, mostly Louisiana residents. The annual working payroll exceeds \$348 million. In a recent three-year period, riverboat casinos invested more than \$45 million in capital improvements. Those improvements translate into jobs and goods and services. Despite the fact that 2016 riverboat revenues were down by 2.7% compared to the previous year they still managed to generate \$688 million in revenue.

I think state and local elected officials understand the importance and value of riverboat gaming in Louisiana. I think they also understand that competition for the gaming customer is only going to become more challenging. Neighboring markets continue to evolve and it has become evident to many policy makers that Louisiana that current law and regulations are overdue for review. Those concerns over economic development complacency and outdated law were likely motivating factors which led to Senate Concurrent Resolution 17.

Senator Ronnie Johns (Lake Charles) recognizes that riverboat gaming is an industry that was created to promote economic development and opportunity. He also recognizes that there is much that can be done to energize continued economic development. Senator Johns and his colleagues introduced and passed the concurrent resolution during the 2016 regular legislative session that ended this past summer. The instrument created the Louisiana Riverboat Economic Development Task Force.

The Task Force is an eleven person body charged with reviewing current riverboat gaming law and regulation and making recommendations for changes to the legislature, changes that Senator Johns hopes might help promote further economic development. The resolution designates me as the chairman of the group. A cross section of membership draws from a variety of government and private

entities. It is comprised of representatives from legislature, the offices of governor and lieutenant governor, the Department of Economic Development, the Louisiana State Police, the Attorney General and the industry. Meeting the second Tuesday of every month (except when the Legislature is in session), the Task Force has already begun the process of hearing from owners and stakeholders. Meetings are streamed live on the Legislature's website and previous meetings are also archived there. All documents and presentations generated by the Task Force can be found through a link on the Gaming Control Board's homepage.

At the first two meetings, members were provided with a history of the industry's development in Louisiana and the current regulatory framework. They were also briefed on the state of current and emerging gaming technologies by representatives of Gaming Laboratories International. A series of presentations by licensee CEOs began with Boyd Gaming's President and CEO, Keith Smith and Pinnacle Entertainment's Anthony Sanfilippo. The Executive Director of the American Gaming Association, Geoff Freeman, visited with the Task Force at the January meeting, and the CEO's of Tropicana Entertainment, Caesars and Landry's (Golden Nugget) are scheduled to be heard in the months ahead.

We anticipate that in the fall of this year the Task Force will finish up with testimony from problem gambling treatment advocates, maritime consultants and the Coast Guard. At the appropriate time, local chambers of commerce, port officials and political leaders where boats are located will have an opportunity to address the Task Force.

We hope to have all testimony provided to the Task Force by late 2017 and will begin the process of crafting recommendations to offer the legislature. I recognize that the issue of gambling is considered a "third rail" for some elected officials. The changes to the riverboat gaming law that Governor Mike Foster oversaw in 1996 were modest, but a good start. Governor Blanco wasn't especially interested in opening the law up for discussion and most of her tenure was consumed by Hurricanes Katrina and Rita. During the next eight years, Governor Jindal was just as reluctant to talk about changes to any gambling law. Now that Governor John Bel Edwards is into his first year, his staff has shown that they are at least willing to talk about possibly supporting changes to the law. I see that as a window of opportunity that we haven't had in more than two decades.

I cannot predict what path the Task Force or the Legislature will pursue. Early in the game, a primary issue of discussion has been the whole riverboat concept. We've also heard from industry representatives about the manner in which complimentary items are taxed in Louisiana and the size of gaming space, a finite compact area that was designed for a fairly standard size slot device. We know that to attract patrons to Louisiana properties, casinos will have to be competitive in terms of new device technology.

Senator Johns' resolution designated me as the group's chairman and while I'm honored to serve in that capacity, I cannot be the flag bearer for legislative change. I cannot lead the charge. I can only facilitate the discussion and provide guidance and counsel to the process. The gaming industry and its supporters must do the hard work of urging legislative change. A longtime friend (journalist and author) questioned my leadership role on the Task Force suggesting that as the LGCB chairman I should just regulate based



on current law. While I agree that I must fulfill my fundamental responsibility as regulator, I also know that if in fact riverboat gaming is about economic development, I believe I can ethically navigate the role of regulator and that of facilitator of the Task Force's deliberations. Philosophically, I brought to this position a belief that if regulation is carried out in a fair and transparent manner and licensees understand what the rules are and follow the rules, we can create a regulatory environment that promotes not only the state's economy, but the industry as well. As Mark Twain said, twenty years from now I don't want to be disappointed by the things I didn't do.

Chairman Jones is in his 42nd year of public service in Louisiana. His previous experience includes a 32 year career in the Louisiana State Police where he served as the agency's Deputy Superintendent and managed legislation which originally legalized gambling in Louisiana. As a senior policy advisor to the Superintendent he played a key role in creating the initial gaming regulatory structure. He also has extensive experience in the academic sector in both public and private universities. He was appointed Chairman of the Gaming Control Board in 2013.