

## RESOLUTION 1993-14

### A RESOLUTION TO ESTABLISH INTERIM WRITTEN GUIDELINES GOVERNING AN APPLICANT'S PAYMENT OF THE COSTS OF A SPECIAL ELECTION TO BE CONDUCTED ON MAY 3, 1994 CONCERNING WHETHER LICENSES TO PERMIT RIVERBOAT GAMBLING SHOULD BE ISSUED IN A CITY OR COUNTY

**WHEREAS**, the Indiana Gaming Commission ("the Commission") has the power and duty under IC 4-33-4-1 to fully and effectively execute IC 4-33 ("the Riverboat Gambling Law");

**WHEREAS**, the Commission has the power and duty to take any reasonable or appropriate action to enforce the Riverboat Gambling Law;

**WHEREAS**, the Commission is required under IC 4-33-4-5 to adopt standards for the licensing of persons regulated under the Riverboat Gambling Law;

**WHEREAS**, subject to the adopting of a docking ordinance by the appropriate local fiscal body or upon submission of a petition by the voters of a city or county as provided by Public Law 277-1993(ss), SECTIONS 133 and 134, an applicant for a license under the Riverboat Gambling Law is required to pay in advance the cost of any special election if an election is to be held on May 3, 1994 within a city or county on the local public question of permitting riverboat gambling in the city or county;

**WHEREAS**, the Commission has been duly advised in this matter and finds that absentee ballots must be available to be mailed to voters no later than Thursday, March 24, 1994 for use in a city or county in which a special election will be conducted on May 3, 1994 and that the preparation of ballots and other election supplies by printers requires that county election administrators determine by approximately March 4, 1994 whether a special election will be conducted within that county on May 3, 1994;

**WHEREAS**, the Commission finds that prescribing a final date by which an applicant may make payment of the costs of a special election to a county will prevent confusion and disruption of the election process resulting from delayed or belated submissions and will maintain the public's confidence and trust in the Riverboat Gambling Law;

**WHEREAS**, Public Law 277-1993(ss), SECTIONS 133(b) and 134(c) provide that a special election can be conducted on May 3, 1994 only if at least one applicant for a riverboat license under IC 4-33-6 pays in advance of the election the cost of the expenses to hold a special election, as determined by the appropriate county election board;

**WHEREAS**, the Riverboat Gambling Law provides that the cost of holding a special election is to be determined by the appropriate county election board, but does not specify a date by which this determination of cost must be made;

**WHEREAS**, the Riverboat Gambling Law does not prescribe the procedure for a county to accept and process payment of special election costs by more than one applicant for a license under the Riverboat Gambling Law for a May 1994 special election;

**WHEREAS**, the Commission finds that requesting county election boards to make a prompt determination of special election costs and prescribing a procedure for the payment of special election costs in counties where more than one person applies for a license within that county will prevent confusion among applicants and county officials and will maintain the public's confidence and trust in the Riverboat Gambling Law;

**NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA GAMING COMMISSION, THAT THE FOLLOWING INTERIM WRITTEN GUIDELINES ARE ADOPTED:**

**SECTION 1. SCOPE.**

(a) These guidelines apply to each applicant for a license who wishes to act under Public Law 277-1993(ss), SECTION 133(b) or SECTION 134 (c) to pay the cost of a special election to be conducted within a city or county on May 3, 1994.

**SECTION 2. DEFINITIONS.**

The definitions set forth in IC 3-5-2 and IC 4-33-2 apply to these interim written guidelines.

**SECTION 3. DEADLINE FOR PRESENTING PAYMENT OF ELECTION COSTS.**

An applicant may not present a county auditor with a cashier's check or certified check to pay in full the cost of a special election to be conducted on May 3, 1994 under P.L. 277-1993 (ss), SECTION 133(b) or SECTION 134(c) after noon, local prevailing time, March 4, 1994.

**SECTION 4. PROCEDURE FOR PAYMENT OF ELECTION COSTS.**

(a) An applicant must present the following items to the county auditor of the appropriate county to comply with P.L. 277-1993(ss), SECTION 133(b) or SECTION 134(c):

(1) A copy of the application filed by the applicant with the Commission, stating:

(A) that the application has been filed with the Commission;

(B) the county (or in the case of Lake County, the city) for which the application has been made; and

(C) that the application fee has been paid.

(2) A cashier's check or certified check, in the amount of the cost of the special election (as previously determined by the county election board of the county), and made payable to "THE \_\_\_\_\_ COUNTY TREASURER".

(b) An applicant will be considered to have paid for the cost of the special election within the county when the applicant has complied with subsection (a) and the County Auditor provides the applicant with a copy of the quietus or receipt issued by the County Auditor and County Treasurer, with a date and hour of issuance stated on the quietus or receipt.

**SECTION 5. PAYMENT OF ELECTION COSTS WITHIN THE SAME JURISDICTION BY MULTIPLE APPLICANTS.**

(a) This SECTION applies to the payment of the costs of a special election within a jurisdiction when more than one (1) person has filed an application with the Commission for a license within the same jurisdiction.

(b) This subsection applies to an applicant who acts under SECTION 4 to pay for the cost of a special election before noon, prevailing local time, March 4, 1994. Before presenting items under SECTION 4, the applicant shall ask the county auditor whether any other applicant has previously presented items under SECTION 4 to pay the costs of the special election. If another applicant has previously paid the costs of the special election in accordance with these guidelines, the applicant may not present the items under SECTION 4.

(c) After a special election is conducted and before issuing an owner's license within the jurisdiction, the Commission shall determine whether a person (other than the applicant who paid the cost of the special election) has applied for a license within the jurisdiction where the special election was conducted. If another person has applied within that jurisdiction, the Commission shall issue an order requiring the person to forward a cashier's check or certified check to the applicant who paid the cost of the special election.

(d) The amount of the payment described under subsection (c) equals the cost of the special election (as previously determined by the county election board) divided by the number of persons who have applied for an owner's license within the jurisdiction. The Commission's order may prescribe a date by which the person shall make the payment to the applicant.

**SECTION 6. COUNTY ELECTION BOARD DETERMINATION OF SPECIAL ELECTION COSTS.** The Commission requests that the county election board of each county in which a jurisdiction:

(1) is permitted to conduct a special election under the Riverboat Gambling Law; and

(2) did not conduct a special election under the Riverboat Gambling Law on November 2, 1993;

to act no later than February 4, 1994 to determine the costs of holding a special election on May 3, 1994.

**SECTION 7. NOTIFICATION OF COUNTY ELECTION BOARDS.** The Commission shall send a copy of this Resolution to the County Election Boards of each of the following counties (in care of the Circuit Court Clerk as Secretary of the respective county election board) and convey the request that the County Election Board act under SECTION 6 of this Resolution:

Crawford County

Dubois County

Harrison County

Jefferson County

Lake County (for determination of costs within the City of Whiting)

Orange County

Perry County

Posey County

Spencer County

**SECTION 8. EFFECTIVE DATE AND EXPIRATION.** These guidelines are effective immediately and expire on the date that rules are adopted under IC 4-33-4-2.

ADOPTED, THIS THE 10TH DAY OF DECEMBER, 1993:

THE INDIANA GAMING COMMISSION:



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/s/ Alan I. Klineman, Chair

ATTEST:



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/s/ Gene Hensley,  
Secretary to the Commission