ROBB & ROSS

JOSEPH W. ROBB A PROFESSIONAL CORPORATION

PHILIP A. ROBB
ALAN J. TITUS
ANNE C. SLATER †
JOSEPH W. ROBB **
**(1926 - 2019)

591 REDWOOD HIGHWAY, SUITE 2250
MILL VALLEY, CALIFORNIA 94941
TELEPHONE: (415) 332-3831
FAX: (415) 383-2074

STERLING L. ROSS, JR. *
*RETIRED

†CERTIFIED SPECIALIST IN ESTATE PLANNING, PROBATE AND TRUST LAW, THE STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

February 9, 2026

Mr. Joshua Rosenstein
California Gambling Control Commission
Email: lawsandregs@cgcc.ca.gov
2399 Gateway Oaks Drive, Suite 200
Sacramento, CA 95833-4231

Re: 2026 Update to Annual Fees
CGCC-GCA-2025-05-R

Dear Mr. Rosenstein:

I write on behalf of Artichoke Joe's with comments on the proposed regulations referenced above. Artichoke Joe's joins in the comments submitted by the California Gaming Association and provides a few additional comments of its own.

I. ISSUES WITH APPORTIONMENT OF FEES

A. The Annual Fees Fail to Bear a Reasonable Relationship to the Payor's Burdens

The Constitution requires not only that the fees be no more than necessary to cover the reasonable regulatory costs, but also that the fees "bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the [regulatory] activity." This reflects long-standing case law.

Here, the fees are allocated among the various cardrooms based solely on revenue, not on the licensees' burdens on the regulatory activity.

As we have repeatedly noted since this fee methodology first appeared in 2022, a percentage fee based on amount of revenue has the same look, feel and effect as an income tax. The fees are based on revenue, the same as income taxes and are calculated as a percentage of the revenue, the same as income taxes. A charge like this, based on revenue, is a tax, not a fee. The fact that the amount

generated is the same as the costs does not change the nature of the charge. To be a fee, the charge would need to be based on the regulatory burden and allocated based on the payor's contribution to that regulatory burden.

The regulatory activity is focused on gaming, and fees should be based on some measure of the amount of gaming activity transpiring. Previously, that measure was based on the number of tables for which each cardroom is licensed, and that remains the best measure of regulatory activity.

Revenue is not a proper measure of gaming activity, as cardrooms all can and do charge different rates for the same activity. The fees charged by cardrooms to customers will be determined based on various market factors and are not a proper measure for fees. Nor are we aware of any other state agency which bases regulatory fees on revenue of its regulated businesses.

A fee based on revenue raises another issue. A number of cardrooms have "no collection" games and depend solely on payments from third-party players, while other cardrooms collect fees from all players. Payments from third party players substitute for table revenue. However, these alternative types of payments are taxed differently. Reimbursements from third party players are not considered revenue and are not taxed. This raises a fairness issue and raises a question whether the Commission with this new "fee" methodology is favoring cardrooms with no collection practices.

A fee charged by table would dispel these questions and would be altogether more appropriate.

B. Lack of Transparency

A fee based on gross revenue also suffers from lack of transparency. If one learns the fee paid by a cardroom, one is able to calculate that cardroom's gross revenue. Gross revenue is confidential information. So just as income taxes are very confidential, fees charged and paid becomes highly confidential information. Fees charged by an agency should be public information and generally are. Under the current fee methodology, transparency is taken away. Government should work to be more transparent, not less, and that is another reason to change the basis of these fees.

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We appreciate your consideration of these comments.

Sincerely,

Alan Titus

J. BLONIEN
A PROFESSIONAL LAW CORPORATION
1121 L STREET, SUITE 105
SACRAMENTO, CALIFORNIA 95814
916-441-4242
WWW.JBLONIEN.COM

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231

January 6, 2026

Via Email: jrosenstein@cgcc.ca.gov

Re: Comments on Proposed Regulations – "2026 Update to Annual Fees," CGCC-GCA-2025-05-R (Proposed amendments to Title 4, Division 18, §§ 12092 & 12094)

Dear Mr. Rosenstein:

We submit these comments regarding the Commission's proposed amendments to sections 12092 and 12094 and respectfully request that they be included in the administrative record.

We acknowledge the Commission's goal of updating annual fee amounts to "maintain proper funding levels." We also recognize that, under the Administrative Procedure Act ("APA"), the Commission must find that the proposed regulations are reasonably necessary to achieve the purpose of the governing statute and that no reasonable alternative would be as effective and less burdensome to affected private persons (Gov. Code, §§ 11346.2(b)(1), 11346.5(a)(3)(D)).

Our concern is with a structural flaw in the proposed annual-fee methodology, especially as applied to Third-Party Proposition Player Services ("TPPPS") licensees, that undermines proportionality, causes predictable distortions during ownership and contract transitions, and risks cross-subsidization that is not consistent with the California Gambling Control Act's cost-recovery framework (Bus. & Prof. Code, §§ 19801, 19961, 19961.5).

1. The Three-Year Average Gross-Revenue Base Relies on a Static Presumption of Revenue

Under the proposed amendments, an "Active Licensee – 3-Year Average Gross Revenue of $1.5 million or More" pays a percentage of its three-year average gross revenue (proposed at 1.49% for TPPPS). The Initial Statement of Reasons ("ISOR") explains that the Commission will calculate a percentage applicable to the $1.5 million-plus TPPPS group and apply that percentage to each licensee's three-year average gross revenue to determine the amount owed.

This approach assumes revenue stability that does not reflect how TPPPS businesses operate. TPPPS revenue is largely contract-driven and can change materially from year to year based on the gain or loss of individual cardroom contracts. When a TPPPS provider loses a significant contract and revenue declines sharply, the proposed fee base remains elevated for multiple assessment cycles because it continues to incorporate historical revenues that are no longer earned.

The resulting fee assessment can therefore differ significantly from the licensee's current operational footprint and their ability to pay. More importantly, it diverges from the Commission's stated rationale that larger entities should pay more because they "generally require more" regulatory oversight. Once a contract is lost, the historic revenue figure no longer reflects the actual scope of regulated activity or the Commission's workload for compliance, licensing, and enforcement.

Because this outcome is foreseeable in a contract-based industry, it is not an edge case but a predictable consequence of the proposed methodology.

2. The Three-Year Average Also Produces a "New Entrant / Ramp-Up" Discount for Large Operations

The same three-year averaging mechanism operates in the opposite direction for newly formed or newly scaled operators. A licensee that is new on paper, but operating at scale today, may have a materially depressed three-year average due to partial-year operations or years with little or no revenue. As a result, similarly situated large operators can pay materially different annual fees for multiple cycles solely due to the timing of entry, restructuring, or entity formation, not due to differences in regulatory workload.

The proposed regulations and ISOR do not clearly explain how the Commission calculates a "three-year average" for licensees with fewer than three completed years of operations. It is unclear whether missing years are treated as zero, whether partial-year revenues are annualized, or whether special rules apply to newly licensed entities. The regulatory text assumes the existence of a three-year average and does not address how the methodology functions where that assumption does not hold.

Absent clarification, the model creates discounted assessments for large, revenue-generating operations that are simply new in form, which is difficult to reconcile with the statutory objective of proportional, operation-based cost recovery (Bus. & Prof. Code, §§ 19801, 19961).

3. The Model Rewards Entity Turnover and Penalizes Stable Licensees, Creating Predictable Gaps and Cross-Subsidies

As the Commission is well aware, controlled gambling operations and TPPPS contracts frequently change hands. When a large cardroom business or a major TPPPS contract is

transferred to a new entity, the underlying scope of operations and the associated regulatory workload typically remain substantially the same, even though the licensed entity changes.

Under the proposed "three-year average by entity" methodology, however, fee liability is tied to the licensee's historical gross revenues rather than to the continuity or scale of the regulated operation. When a predecessor entity experiences declining revenues before a transfer, the successor may benefit from an artificially depressed three-year average. In contrast, the predecessor may continue to carry an inflated average derived from earlier years, despite no longer operating the business.

Two features of the ISOR materially exacerbate this distortion:

- The Commission sets the annual fee amount for surrendered or revoked licensees at $0; and
- For licensees in the $1.5 million-plus tier, the applicable percentage is applied individually to each licensee's three-year average gross revenue.

Taken together, these provisions create incentives misaligned with the Gambling Control Act's cost-recovery purpose. The proposed model can reward the formation or acquisition of "new" entities that inherit large, revenue-generating operations or contracts but lack a full revenue history, while penalizing stable, continuing licensees that remain in the assessment pool. When revenue-heavy activity migrates to a new entity, or when a high-revenue predecessor exits the system and is assessed at $0, the remaining incumbents effectively absorb a disproportionate share of the Commission's funding needs, regardless of whether their regulatory burden has increased.

This outcome undermines the Commission's stated proportionality rationale. It creates tension with the statutory requirement that regulatory fees bear a reasonable relationship to the costs of administering and enforcing the Gambling Control Act (Bus. & Prof. Code, §§ 19961, 19961.5).

4. APA "Reasonable Alternatives" and ISOR Deficiency

From an APA perspective, the proposed amendments raise a significant "reasonable alternatives" concern. The APA requires the Commission to evaluate whether less burdensome alternatives exist that would be equally effective in achieving the regulation's purpose (Gov. Code, §§ 11346.2(b)(1), 11346.5(a)(3)(D)).

The ISOR does not meaningfully analyze whether the proposed methodology predictably incentivizes restructuring, produces transition-period funding gaps, or results in cross-subsidies unrelated to actual regulatory oversight. Nor does it evaluate alternatives that track operational continuity and current workload rather than the age or revenue history of a particular legal entity.

Absent such analysis, the rulemaking record does not demonstrate that the proposed approach is reasonably necessary to effectuate the statute's purpose or that it represents the least burdensome means of maintaining proportional, operation-based funding.

5. Requested Regulatory Clarifications and Modifications

Without rejecting the Commission's overall cost-pool approach, we respectfully request targeted modifications to section 12094 to address (i) revenue volatility, (ii) new entrants and ramp-ups, and (iii) entity-churn windfalls. Each of the following options advances proportionality while preserving administrative feasibility:

A. Codify a "Fewer-Than-Three-Years" Rule
Until a licensee has three completed fiscal years, use the most recent completed fiscal year revenue (or an annualized figure for partial years), transitioning to a three-year average once it exists. This prevents discounted assessments for large operations that are simply new in form and avoids arbitrary distinctions among similarly situated licensees.

B. Adopt a Successor-in-Interest / Continuity Rule
Where a new licensee acquires or assumes a cardroom operation or a material TPPPS contract, the fee base should follow the operational footprint for a defined transition period (e.g., using predecessor-attributable revenue history). This prevents entity-reset windfalls and minimizes funding gaps while aligning fees with ongoing regulatory demand.

C. Provide a Material Revenue-Decline Adjustment or True-Up Mechanism
When a licensee experiences a documented, substantial revenue decline due to contract loss or similar events, allow recalculation using a more current revenue base or provide a credit mechanism. This avoids multi-year assessments based on revenue no longer earned and better aligns fees with actual oversight requirements.

D. Consider a Weighted Average Rather Than a Simple Mean
A weighted approach emphasizing more recent years preserves smoothing while responding more quickly to real-world volatility, reducing both over-assessment after revenue shocks and discounted assessments during ramp-up per

REQUESTED ACTION

For the reasons set forth above, we respectfully request that the Commission revise the proposed amendments to section 12094 to prevent:
(1) multi-year over-assessment following revenue volatility;
(2) discounted assessments for large new entrants or ramp-ups; and
(3) entity-reset windfalls and funding gaps during ownership or contract transitions.

These outcomes undermine the stated proportionality rationale and the statutory objective of maintaining proper funding levels tied to regulatory demand.

We do not oppose the administrative change moving the final installment deadline from June 30 to June 5, as described in the rulemaking record, particularly given the Commission's stated fiscal-processing concerns at fiscal year-end.

Thank you for your consideration.

Respectfully submitted,

Jarhett Blonien

J. BLONIEN
A PROFESSIONAL LAW CORPORATION
1121 L STREET, SUITE 105
SACRAMENTO, CALIFORNIA 95814
916-441-4242
WWW.JBLONIEN.COM

January 29, 2026

Joshua Rosenstein, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231

VIA EMAL: jrosenstein@cgcc.ca.gov

Re: Public Comment on CGCC-GCA-2025-05-R ("2026 Update to Annual Fees") — Non-Operational Licensee Annual Fees (4 CCR § 12094)

Dear Mr. Rosenstein:

I submit this public comment regarding the Commission's proposed update to annual fees, limited to the annual fees assessed to "Non-Operational Licensee[s]" in the proposed 4 CCR § 12094. Specifically: (1) the magnitude of the non-operational annual fee for cardrooms, (2) the significant disparity between the non-operational annual fee for cardrooms and for Third-Party Proposition Player Services ("TPPPS") licensees, and (3) the absence of a clear explanation in the rulemaking record of the actual operational/regulatory burden associated with non-operational status.

1) The proposed non-operational annual fees are substantial, and the cardroom/TPPPS disparity is extreme.

The proposed regulatory text identifies the following annual fee amounts for "Non-Operational Licensee": TPPPS: $2,170 (current text shows $2,326); and Cardroom: $6,895 (current text shows $7,575). This is not a slight difference. The non-operational cardroom annual fee ($6,895) is more than three times the non-operational TPPPS yearly fee ($2,170).

That disparity demands a clear, record-supported explanation of the Commission's underlying premise: why does a cardroom that is not operating impose more than triple

the non-operational regulatory burden of a non-operational TPPPS entity? To date, the record does not include any explanation for this disparity.

2) The disparity appears to be the mechanical byproduct of a proxy, not a workload finding for non-operational entities.

The Initial Statement of Reasons explains that the Commission determines the amount owed by each non-operational licensee by setting it equal to one-half of the amount owed by each active licensee in that group whose three-year average gross revenue is under $1.5 million. Because the "active under $1.5M" cardroom fee is far higher than the "active under $1.5M" TPPPS fee, the non-operational cardroom fee will necessarily be far higher as well, even if the actual non-operational workload is similar (or minimal) for both categories.

While choosing 50% of an active fee may be administratively simple, there is no evidence of a demonstrated workload that supports this number for non-operational entities. This is especially problematic where non-operational licensees have no operating revenue but must still pay recurring annual fees as if they were incurring 50% of an operating business's revenue.

3) The Commission's stated policy goal is workload alignment, but the record does not explain how non-operational fees relate to workload.

The rulemaking record states that the purpose of the annual fee update is to ensure adequate funding while aligning fees with the actual regulatory workload attributable to each segment of the industry. It also explains that annual fees are calculated after costs already recovered through direct application, renewal, or deposit-based fees are deducted.

That distinction is central for non-operational entities. If application- or renewal-related costs are recovered through direct fees or deposits, those exact costs cannot lawfully be used to justify a recurring annual fee.

Yet the record provides no reasoned explanation for imposing a $6,895 annual fee on non-operational cardroom licensees. The Commission does not identify what ongoing Commission or DOJ workload this fee is intended to fund for a cardroom that is not operating, nor does it explain why that workload is materially greater than the workload associated with a non-operational TPPPS entity.

This omission is an APA defect. An agency must articulate a rational connection between the facts found and the decision made. Here, the rulemaking record fails to disclose the factual basis for allocating recurring regulatory costs to non-operational cardrooms, fails to explain the differential treatment of similarly situated non-operational entities, and therefore fails to demonstrate that the fee is reasonably related to the costs of the

regulatory program. Absent that explanation and supporting evidence, the fee is arbitrary, unsupported by the record, and inconsistent with the agency's stated methodology.

4) The cost-pool descriptions highlight why a non-operational workload explanation is necessary, especially for cardrooms.

The Initial Statement of Reasons describes multiple cost pools, including cardroom-specific items such as compliance reviews of games, reviews of reports, and local ordinance reviews, as well as TPPPS-specific items such as contract renewal notices and non-investigation industry inquiries or correspondence. For a non-operational cardroom, the cardroom-specific examples are difficult to reconcile with non-operational status: what game compliance review is occurring when no games are being offered; what operational reporting is being reviewed when the cardroom is not operating; and what local-ordinance review occurs on an annual basis for a licensee that is not operating?

These are <u>not</u> rhetorical questions. They go directly to whether a workload nexus supports the size and disparity of non-operational fees. If the Commission believes non-operational cardroom licensees still generate meaningful workload within these cost pools, the record should specify what tasks occur, how often they occur, and the estimated cost of performing them, and then explain why those tasks justify a non-operational annual fee more than triple the TPPPS equivalent.

5) The allocation method for certain costs appears to include non-operational licensees without showing a comparable non-operational burden.

The Initial Statement of Reasons describes allocation methods that, at least for some cost categories, compare totals of active and non-operational licensees across cardrooms and TPPPS and apply those percentages to particular cost pools. To the extent operational-driven costs (for example, compliance/enforcement work, audits, calls for service, and incident reports) are allocated in part based on headcount that includes non-operational licensees, the record should explain whether non-operational entities actually generate those costs at a rate comparable to active entities. If they do not, the Commission should explain why non-operational entities are included without adjustment.

6) The schedule already recognizes "zero burden" for some statuses. Non-operational fees should be justified with similar clarity.

The record reflects that surrendered or revoked licensees are assessed $0. Non-operational licensees remain licensees, and some ongoing burden may be reasonable. However, when the annual fee is thousands of dollars, the record should clearly identify what regulatory services are being delivered to the non-operational entity and the reasonable cost of those services.

7) We request clarification in the record of the operational burden of a non-operational entity.

To make the non-operational fee structure supportable on a workload basis and to respond to the disparity, we request that the Commission add to the final statement of reasons (or otherwise place into the rulemaking file) a clear, evidence-based explanation addressing:

- Definition and criteria: how "Non-Operational Licensee" is defined in practice; the criteria to qualify; and how non-operational status is verified or reviewed.
- Workload inventory: for each cost pool described in the Initial Statement of Reasons, identify which tasks are performed for non-operational cardrooms versus non-operational TPPPS entities and estimate staff time and cost.
- Comparative explanation: a narrative and quantitative explanation for why non-operational cardrooms require materially greater workload than non-operational TPPPS, enough to justify a fee more than triple.

8) The 50% proxy must be replaced with a workload-based non-operational fee and must address the disparity explicitly.

Because the current approach sets the non-operational fee by halving an "active under $1.5M" fee, it is not inherently tied to non-operational workload.

We request that the Commission revise the proposed language of § 12094 to adopt a workload-based non-operational fee structure that better reflects actual burden and avoids an unexplained disparity. Options include:

- an actual "maintenance-only" non-operational fee reflecting only limited recurring work applicable to non-operational status (e.g., basic administration/IT and minimal correspondence).
- Excluding operationally driven cost categories from non-operational calculations unless the Commission can demonstrate that those costs are in fact incurred for non-operational entities.
- Creating a distinct inactive/non-operational status with clearly defined obligations, reduced annual fees, and reactivation through direct fees when operations resume.

If the Commission maintains a material disparity, it must explicitly justify it in the final statement of reasons with enough detail to evaluate the claimed workload difference.

CONCLUSION

The proposed fee schedule charges a non-operational cardroom $6,895 annually while charging a non-operational TPPPS $2,170, a disparity that appears driven by a mechanical proxy rather than a demonstrated non-operational workload analysis. We

respectfully request that the Commission (1) place into the rulemaking record a clear, specific explanation of the operational/regulatory burden associated with non-operational status, and (2) revise §12094 to adopt a workload-based non-operational fee structure, particularly for cardrooms, rather than using a proxy that produces an unexplained and severe disparity.

Respectfully submitted,

Jarhett Blonien

From: Andreia McMillen
To: lawsandregs
Subject: RE: NOTICE OF PROPOSED REGULATORY ACTION - 2026 Update to Annual Fees
Date: Monday, February 2, 2026 8:54:20 PM

Hello,

This is to inform you that the Bureau of Gambling Control has no comments at this time regarding the proposed regulations to update annual fee amounts.

Thank you,

Andreia McMillen – Supervisor I
Bureau of Gambling Control | Special Programs Unit
Office: 916.830.9032 | Work Cell: 916.261.4256

From: lawsandregs <lawsandregs@cgcc.ca.gov>
Sent: Friday, December 26, 2025 9:21 AM
Subject: NOTICE OF PROPOSED REGULATORY ACTION - 2026 Update to Annual Fees

EXTERNAL EMAIL: This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

NOTICE OF PROPOSED REGULATIONS
CALIFORNIA CODE OF REGULATIONS
TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION
CGCC-GCA-2025-05-R:
"2026 Update to Annual Fees"

The California Gambling Control Commission (Commission) is proposing to take the regulatory action described in the attached Notice of Proposed Action (Notice). The Notice will be published in the *California Regulatory Notice Register* on December 26, 2025, which will begin the 45-day public comment period. Written comments must be received by the Commission no later than **February 9, 2026**, as directed in the Notice. A Commission hearing to receive oral comments has not been scheduled.

The proposed regulation text and the Initial Statement of Reasons are also attached. The attached documents will be available on the Commission's Web site on the Proposed Regulations page.

NOTE: You will need a recent version of Adobe Acrobat Reader (probably 7.0 or newer) to view the attachments.

Inquiries concerning the substance of the proposed action, or requests for a copy of the Notice, Specific Language of Proposed Regulations and/or Initial Statement of Reasons, should be directed to the following primary contact person:

Josh Rosenstein, Legislative and Regulatory Specialist
Legislative and Regulatory Affairs Division
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
Telephone: (916) 274-5823
Fax: (916) 263-0499
E-mail: jrosenstein@cgcc.ca.gov

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