

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
SIXTH DIVISION

GULFSIDE CASINO PARTNERSHIP

PLAINTIFF

VS.

CASE NO. 60CV-19-5832

ARKANSAS DEPARTMENT OF FINANCE
AND ADMINISTRATION and ARKANSAS
RACING COMMISSION

DEFENDANTS

ORDER

On the 24th day of March, 2020 came on for consideration Gulfside Casino Partnership's *Motion for Summary Judgment* and from the pleadings filed herein, the court doth find and order as follows:

1. The *First Amended Verified Complaint*, filed on August 22, 2019 alleges three causes of action.
2. On February 4, 2020 Gulfside filed a *Motion for Summary Judgment* concerning Count II of the *First Amended Verified Complaint*.
3. Count II requests a declaratory judgment that A.C.A. 23-117-101 is unconstitutional.
4. A.C.A. § 23-117-101 states:
 - (a) Pursuant to The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100, the Arkansas Racing Commission shall require a casino applicant for a casino license in Pope County and Jefferson County to submit:
 - (1) Either a letter of support from the county judge or a resolution from the quorum court in the county where the proposed casino is to be located; and
 - (2) If the proposed casino is to be located within a city or town, a letter of support from the mayor in the city or town where the proposed casino is to be located.
 - (b) A letter of support from the county judge or a resolution of support from the quorum court, and from the mayor, if appropriate, required under

subsection (a) of this section shall be dated and signed by the county judge, quorum court, or mayor holding office at the time of the submission of an application for a casino license.

5. Section 4(n) of Amendment 100 to the Arkansas Constitution, known and cited as “The Arkansas Casino Gaming Amendment of 2018,” specifically addresses letters of support from local elected officials. Section 4(n) states:

(n) The Arkansas Racing Commission shall require all casino applicants for a casino license in Pope County and Jefferson County to submit either a letter of support from the county judge or a resolution from the quorum court in the county where the proposed casino is to be located and, if the proposed casino is to be located within a city or town, shall also require all casino applicants to include a letter of support from the mayor in the city or town where the applicant is proposing the casino to be located.

6. The court has determined A.C.A. 23-117-101(b) imposes an additional qualification, sometimes referred to as a “negative” qualification, beyond the plain and unambiguous language of Amendment 100.

7. The *Motion for Summary Judgment* as to Count II is granted in part and denied in part. A.C.A. § 23-117-101(a)(1) and (2) are declared constitutional and in accordance with Amendment 100. A.C.A. § 23-117-101(b) is declared unconstitutional for the reasons set forth above.

IT IS SO ORDERED AND DECREED.



TIMOTHY DAVIS FOX
CIRCUIT JUDGE

March 24, 2020
DATE