

Questions for Casino Hearing

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Issue

This report provides questions and additional information for a casino-related hearing. (This is a companion report to OLR Report 2017-R-0063.)

Background

State law prohibits casino gambling (among other forms of gambling not at issue here). But despite the ban the Mashantucket Pequot Tribe and the Mohegan Tribe, the state's two federally recognized Indian tribes, are able to legally operate casinos on their reservations under a federal law known as the Indian Gaming Regulatory Act (IGRA).

IGRA provides a framework for resolving jurisdictional, regulatory, and other legal issues involving gaming on federally recognized Indian reservations ([25 U.S.C. §§ 2701, et seq.](#)). Under specified circumstances, it allows casino gaming on such reservations under a negotiated tribal-state compact approved by the U.S. Department of the Interior. IGRA requires a mediation process to be used, under certain conditions, if compact negotiations are not successfully concluded.

Foxwoods Casino, which is owned and operated by the Mashantucket Pequots, operates under federal gaming procedures negotiated by the Interior secretary following IGRA's mediation process, after Connecticut refused to negotiate a compact with the tribe. Mohegan Sun Casino, which is owned and operated by the Mohegans, operates under a negotiated tribal-state compact. The gaming procedures and the compact have the full force and legal effect of federal law. Because of an ongoing dispute between the state and the Mashantucket Pequots as to whether the tribe had a right under IGRA to operate slot machines, the federal procedures (§ 15a) imposed a

moratorium (temporary ban) on slot machines until the issue was settled by (1) agreement between the state and the tribe, (2) a court, or (3) state law. The state claimed that the tribe could not operate slot machines because slot machines are prohibited under state law; the tribes claimed that the various types of games permitted under state law at the time, such as Las Vegas Night games, were sufficient to give the tribe the right under IGRA to have slot machines. (Las Vegas Night games have since been repealed.)

The dispute surrounding the operation of slot machines at the casino was resolved by a memorandum of understanding (MOU) between the state and the Mashantucket Pequots, signed on January 13, 1993, which suspended the moratorium. The MOU gave the tribe the exclusive right to operate slot machines in Connecticut in exchange for a monthly contribution to the state of 25% of its gross slot machine revenue (or 30% if the contribution falls below \$100 million in any year for a total of at least \$100 million).

The MOU was amended on April 25, 1994, allowing the Mohegans to execute its own memorandum with the state to operate slot machines under the same terms as the Mashantucket Pequots. The amendment expanded the scope of the original memorandum by conditioning the tribes' slot contribution to the state on the state not permitting others to operate casino games, instead of just slot machines. Under the amended memorandum, each tribe must contribute 25% of its gross slot machine revenue to the state monthly. If either tribe's contribution falls below \$80 million in any year, its rate increases to 30% to ensure a combined \$160 million minimum annual contribution. (The Interior Department has indicated that the payment does not violate IGRA, in that the tribes are "purchasing a valuable right from the State [and]. . . .the tribal payment for this right is an operating cost"—letter to Mohegan Tribe, dated Dec. 5, 1994.)

2015 Gaming Legislation

In 2015, the Mashantucket Pequots and the Mohegans gained legislative approval to search for an off-reservation casino site. But the casino cannot be built until state law legalizes casinos.

Specifically, the legislature created a process that allows the Mashantucket Pequots and the Mohegans, through a business entity owned exclusively by them (e.g. limited liability corporation) and registered with the secretary of the state, to issue a request for proposals (RFP) and enter into a development agreement with a municipality to possibly establish an off-reservation casino ([SA 15-7](#), which took effect upon passage on June 19, 2015).

The agreement, as well as the establishment of the casino, is contingent upon state law being changed to allow the tribes to operate an off-reservation casino. If a final court judgment finds any provision of the legislation invalid, unlawful, or unconstitutional, the remaining provisions are inoperative and have no legal effect.

Pursuant to the special act, the tribes jointly created MMCT Venture to find a site for the casino. MMCT received five RFPs (request for proposals) from four municipalities (East Hartford, East Windsor, Hartford, and Windsor Locks) but later decided to reopen the bidding process and received five RFPs (East Hartford, East Windsor, Hartford, South Windsor, and Windsor Locks). MMCT is considering sites in two of these towns—East Windsor and Windsor Locks.

MGM Resorts International (MGM) Lawsuit

After the passage of SA 15-7, MGM and the Schaghticoke Tribe, one of the Connecticut tribes seeking federal recognition, separately applied to the secretary of the state to establish a limited liability corporation pursuant to the special act. Both were denied. MGM and the tribe filed separate federal lawsuits claiming the legislation violated both the Equal Protection and Commerce clauses of the U.S. Constitution. In June 2015, a federal district court dismissed MGM's case on grounds that MGM did not adequately allege an injury, after which the tribe dropped its lawsuit. MGM appealed to the Second Circuit Court of Appeals, which heard arguments in November 2015 but has not yet issued a decision.

General Questions

1. How has the partnership between the two tribes been working?
2. What sites are in the running for the proposed casino? What special advantages do these sites offer?
3. According to the latest proposal being floated, the proposed casino facility will have limited amenities. What amenities will not be included?
4. How much is the facility likely to cost?
5. How does Moody's Investment Service rate the tribes? And how will the rating affect their ability to finance construction of the proposed casino?

Revenue

1. In the last few years, declining gambling revenue has upended the view that gambling is recession-proof. Industry analysts generally agree that the recession has contributed to the decline. What are the telltale signs that the gambling market is saturated?
2. How much has each tribe contributed, annually, to the state in the last five years?
3. Will the 25% slot revenue-sharing under the MOU apply to the proposed off-reservation casino?
4. What percentage of gamblers do you anticipate the Springfield casino will draw from the tribal casinos? What percentage of revenue does this represent?
5. In the same way that a Springfield casino will draw customers from the tribal casinos, a new Connecticut casino will draw customers away from them as well. What percentage of gamblers do you believe the proposed casino would draw from the tribal casinos?

Jobs

1. How many new jobs do you anticipate the proposed casino would generate? About how many do you anticipate will go to currently unemployed residents? Will any of the current employees at the tribal casinos be transferred to the proposed casino?
2. Describe the types of jobs the proposed casino will generate and the salary ranges for those jobs.
3. Given the proximity of the Springfield market to Connecticut, some Connecticut residents are bound to get jobs at the Springfield casino. Can you provide any estimates on the number of Connecticut residents who will get jobs at the Springfield casino?

Economic Development

1. How has the tribal casinos affected local small businesses?
2. How effective is legalized gambling as a long-term strategy to raise revenue and create jobs?
3. What role, if any, should government play in protecting gambling enterprises from competition whether from within their own state or other states or nations?

4. What types of businesses will provide goods and services to the casino? How many of those businesses are located in Connecticut? How much new state and local revenue will these businesses generate by providing such goods and services?
5. What types of businesses benefit most from being adjacent to casinos? What types may be hurt?

Compulsive Gambling

1. What would you consider to be a responsible gambling policy? How best can the state increase gambling revenue while minimizing the direct and indirect costs of gambling, such as compulsive gambling?
2. The economic and social costs of pathological gambling have been well documented and need to be considered in the context of the overall impact that gambling has on society. How much money do the tribes provide annually to the compulsive gambling treatment programs? How do we know that the programs are working?
3. How do the tribal casinos' loyalty programs affect compulsive gambling and would the programs continue with the new casino?

State and Municipal Service Questions

1. Can the proposed casino sites be developed for other purposes? How does the economic impact of those purposes compare to the economic impact of a casino?
2. How are local employment opportunities affected by casinos coming into an area?
3. How did the tribal casinos affect local small businesses?
4. For many years, the towns around the Foxwoods and Mohegan Sun casinos have been complaining about the high costs they incur from casino traffic. What is the plan for traffic flow in the towns being identified as potential hosts for the casino?
5. What are the types of law enforcement and public safety issues associated with casinos? Will the chosen municipality have to hire more police and fire personnel to address those issues?
6. Will there be a referendum in the chosen municipality?

Other

1. Building a casino in response to the potential revenue loss from the Springfield casino seems like a reactive way to make such a major decision and to change state gambling policy. Would the tribes be open to a broader discussion of the issue with the goal of reviewing the state's anti-gaming policy, even if it means delaying the construction of a casino?

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