

Off-Reservation Casinos

In a Nutshell

The Mashantucket Pequot and Mohegan tribes have operated tribal casinos in Connecticut since the 1990s, but have recently sought approval to operate an off-reservation commercial casino. In 2017 the legislature authorized the tribes to operate a casino in East Windsor once certain conditions were met. To date, the tribes have not received the federal approval needed for the casino to be operational.

Tribal Agreements

- Currently, the state has separate, but virtually identical, memoranda of understanding (MOUs) with the Mashantucket Pequot and Mohegan tribes where each tribe contributes at least 25% of its gross video facsimile (e.g., slot machine) revenue monthly to the state.
- The tribes agree to continue to make these payments as long as the state does not pass a law allowing anyone to operate any video facsimile games of chance or commercial casino game.
- The gaming agreements are enacted pursuant to federal law; thus they supersede state law and cannot be altered solely by state legislation.

Attorney General Letter and Opinions

At separate points in recent years, the legislature and governor have asked the state attorney general for his

opinion on how authorizing an off-reservation casino would affect the current gaming agreements.

Among other things, the attorney general stated that passing legislation allowing the tribes to operate an off-reservation casino could be construed to mean the state has passed a law allowing another entity to operate video facsimile and commercial casino games, even if the tribes entirely own the business entity. This could violate the gaming agreements and relieve the tribes from having to share their revenue.

The attorney general suggested that any such legislation be conditioned on receiving federal approval of amendments to the gaming agreements. Among other things, the amendments must include a provision that the authorization does not terminate the tribes' obligation to provide the state with a portion of their video facsimile revenue.

RELATED LEGISLATION

Enacted Legislation

In 2015, due to the attorney general's concerns, the General Assembly passed [SA 15-7](#), which, created a process for the tribes to issue a request for proposals (RFP) for the possible location of an off-reservation casino. Pursuant to that act, the tribes chose East Windsor as the site for their off-reservation casino.

After choosing a site, the tribes needed legislative authority to operate a casino. In 2017, the legislature passed [PA 17-89](#) (see sidebar), which among other things, authorized the operation of the East Windsor casino, once certain conditions are met, including receiving federal approval for the gaming agreement amendments as the attorney general suggested.

The Mohegan amendments have been approved but the Mashantucket Pequot amendments have not been due to technical differences between the type of gaming agreement the tribes have with the state (i.e., the Mashantucket Pequot agreement was imposed on the state whereas the Mohegans have a negotiated agreement). Connecticut and the Mashantucket Pequot Tribe have sued the federal government for action, but a federal district court has dismissed the lawsuit. After the ruling, the tribe and state have amended their lawsuit with claims the decision was made under undue political pressure.

Proposed Legislation

There have been at least three proposals for the state to have an open RFP process to allow for another commercial casino ([HB 7239](#) (2017), [HB 7319](#) (2017), & [HB 5305](#) (2018)). Similar to SA 15-7, these proposals would create a process for others to bid for the possible establishment of an off-reservation casino gaming facility. The attorney general has stated that such a RFP process would not violate the existing agreements because the process itself does not authorize either video facsimile or casino games, without further legislative action.

The proposals all require the state to develop and issue RFPs to qualify any person, business, or Indian tribe to develop, manage, operate, and maintain a possible off-reservation casino. The RFPs must include, among other things, a refundable application fee (e.g., \$5 million), development agreement with the host municipality with a minimum annual payment to the host, minimum capital investment (e.g., \$500 million), ability to pay a licensing fee (e.g., \$50 million), and an estimate of the number of employees at the facility.

2017 Legislation (PA 17-89)

By law, once the casino is operational, the tribes must, among other things:

- pay the state 25% of its gaming revenue (both video facsimile and other authorized games (e.g., table games)), of which 10 municipalities each annually receive \$750,000;
- contribute \$300,000 to chronic gamblers treatment and rehabilitation account; and
- annually pay an assessment that covers the Department of Consumer Protection's regulatory costs.

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Attorney General Opinions [2017-02](#) & [2018-01](#)

OLR Backgrounder: Off-Reservation Casino ([2017-R-0069](#))

OLR Report: Connecticut Tribal Gaming Timeline ([2018-R-0256](#))

