

# GAMING LEGALNEWS



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#### IS GAMING IN THE CARDS FOR THE VOLUNTEER STATE?

by W. Stuart Scott

Dickinson Wright has learned that Tennessee House Representative Jason Powell has submitted a proposed constitutional amendment that could permit casino gaming in Tennessee. This is designed to amend Article 9, Section 5 of the Tennessee Constitution regarding casinos. It proposes that the Tennessee Constitution be amended to permit gaming in a fashion similar to the previous amendment that allowed for a lottery in Tennessee.

Tennesseans are taking advantage of the relatively easy access they have to legalized gaming in surrounding states. The fact that multiple millions of Tennessean's dollars are streaming across its borders to other states in gaming revenues has not gone unnoticed by the legislature. For example, in the third quarter of 2012 alone, the Mississippi Gaming Commission confirms that over 30% of its gaming revenues in its Northern River Region, which includes Tunica, came from Tennessee residents.

In the original constitutional amendment necessary to allow the lottery in Tennessee, specific reference was made to three contiguous states, Georgia, Kentucky and Virginia, each of which already had a lottery in effect that provided multiple millions of dollars to each state.

The current proposal adds to the constitutional language that allowed lotteries in Tennessee by allowing the Tennessee legislature to authorize casino gaming. It also directs that all state revenues derived from the proposed casino gaming, less an amount to administer gaming, will be allocated to K-12 education and gambling addiction programs.

Passage of the proposed amendment through the initial process is a gamble. Assuming the amendment makes its way out of the state government full committee, it will then be assigned to another committee. The House of Representatives Clerk's office decides which committee it would be assigned to. Since the revenues from gaming could be multiple tens of millions of dollars, it is anticipated that the proposed amendment might be assigned to the Finance Ways and Means Committee because of its potential, significant fiscal impact on the state's coffers. Another possibility is that the bill would proceed straight ahead to the Calendar and Rules Committee. The next step would be to send the proposed amendment to the House Floor for a vote.

Exact timing is uncertain, but it is possible the subcommittee meeting would take place on Wednesday, March 25, 2015. If the amendment receives the necessary votes there, it will then be heard in the state government full committee on March 31, 2015.

If the proposed amendment makes it through the committee system, it would then need to receive a constitutional majority in the House Floor vote. But, it does not appear the House has even authorized a fiscal effect study on possible gaming in Tennessee. There has been no official discussion on the proposed amendment yet, and the scope of potential gaming in Tennessee has not yet been addressed.

The issue of allowing gaming in Tennessee may be a tough one, politically. The state is solidly Republican with the GOP controlling the House, Senate and Governor's office by record majorities for recent times.

Politically, the proposed amendment may make for some strange bedfellows. An intelligent and well-crafted gaming blueprint for Tennessee could help offset some of the backlash that may come from both the right and the left.

Some on the left view gaming as a burden on the poor. Some on the right may view gaming as inconsistent with their religious beliefs. Meanwhile, Tennessee, which does not have an income tax, is highly reliant on its state sales tax revenue. Sales tax revenue by its very nature fluctuates, and Tennessee has experienced an ongoing financial headache for years due to the uncertainty of its primary income source.

If gaming were to be legalized in Tennessee, it could be intelligently crafted in such a way to maximize revenue and control location, and the potential economic windfall to the state and its school system from the proposed amendment could be in the hundreds of millions. In a state where even passing the lottery was controversial, discussing gaming may create a storm of protest, though.

Ohio provides a prime example of the enormous financial benefits Tennesseans stand to gain from legalized gaming. Ohio had seen its citizens streaming across its borders to engage in gaming in neighboring states. Even conservative estimates showed millions of dollars leaving Ohio each year.

In 2009, Ohio voters passed a constitutional amendment that allowed for four casino facilities to be located in the state. The first two casinos, located in Cleveland and Toledo, opened in May of 2012. A third casino opened in Columbus in October of 2012, and a fourth casino opened in Cincinnati in February of 2013.

In Ohio, the tax revenue collected from gross casino taxes is split among seven funds benefiting the counties and certain large cities, school districts, host cities, the casino control commission, the Ohio state racing commission, law enforcement training, and problem gambling and addictions.

The Ohio gaming experience has paid off for its citizens. In the last quarter of 2014, the Ohio city fund, which receives 5% of the gaming revenue, received \$3,191,911.84. The student fund received \$21,705,000.53 (34% of gaming revenue), and the county fund received \$32,557,500.80 (51% of gaming revenue). In total, Ohio brought in just under \$64,000,000 in gaming tax revenue in the

fourth quarter of 2014 alone. In 2014, Ohio received approximately \$268,000,000 in total gaming revenue.

Ohio's legislature generated a carefully crafted amendment that allowed limited, intelligent gaming in precisely the areas desired. The legislative amendment has resulted in over \$1 billion pouring into the Ohio state coffers to help with school, education, and law enforcement among other things.

Could Tennessee use the over \$1 billion in revenue that Ohio has generated for itself by allowing carefully crafted gaming? Will partisan politics and rigid morality mores block this rich source of potential Tennessee revenue? Or will Tennessee politicians punch their own ticket and begin to allow Tennesseans to reap the potential financial benefits that many Tennesseans are currently spending in neighboring states? Only time will tell.

## **INTERNET GAMING LAUNCHES IN ONTARIO – ALBERTA NEXT?**

*by Michael D. Lipton, Q.C., Kevin J. Weber, and Jack I. Tadman*

Pursuant to the Canadian Criminal Code, only provincial governments may conduct and manage Internet gaming. Eight provinces currently conduct and manage Internet gaming, the most recent of which, Ontario, launched its Internet gaming website on January 8, 2015.

The two Canadian provinces not currently offering Internet gaming are Alberta and Saskatchewan. Alberta, however, has recently commenced the process of finding a service provider to enable the Alberta Gaming and Liquor Commission (AGLC) to conduct and manage Internet gaming in Alberta.

Alberta is Canada's fourth largest province in terms of population and third largest province in terms of gross domestic product. In 2012–2013, Alberta earned nearly \$1.7 billion in net gaming revenue, and at 3.99%, had the highest percentage of provincial revenue derived from gaming.

In an interview with the Canadian Broadcasting Corporation, AGLC CEO Bill Robinson stated that "too much money is being left on the table when it comes to Internet gambling sites and Alberta needs to cash in," and "we estimate that there's well over \$100 million that leaves Alberta [through unauthorized online gaming]."

On January 22, 2015, Alberta issued a request for information (RFI) for the provision of a Turnkey Internet Gaming Solution. The RFI invited qualified vendors to describe their vision and approach to the deployment of an Internet gaming solution and the delivery of related services. AGLC's preferred solution is a turnkey offering which includes a back-end operational platform, operations management and support services, and game content and marketing from multiple providers.

A primary vendor will provide the back-end platform and operational services for "a true turnkey environment requiring minimal intervention

by the AGLC for day-to-day functions.” Other providers may provide game content and support services.

Vendor qualifications include:

- a reference base of one or more current clients, either government or private/commercial entities, to whom the vendor has legally supplied products or services in the Internet gaming sector for a minimum of one (1) year;
- having experience in the operation of such products or services in regulated markets in either Europe or North America;
- prior to contract execution, being found suitable by the AGLC Due Diligence Unit and holding a gaming registration in Alberta; and
- a demonstrated operation of such products or services for real-money wagering.

In addition to issuing the RFI, the AGLC also released answers to questions asked by potential respondents. One such question led AGLC to answer that it will not be prohibiting primary vendors from integrating/delivering games from non-primary vendors if those games are currently being offered to Alberta residents via offshore operators. This response indicates that the AGLC may have a tolerant attitude towards offshore operators who offer games to Alberta residents.

The RFI closed on February 26, 2015.