

# Seminole compact raises prospect of gambling war



A poker dealer is works a game at the Magic City Casino in Miami. (AP Photo/Wilfredo Lee, File)



By DANIEL DUCASSI 11:25 a.m. | Dec. 9, 2015

TALLAHASSEE — While Governor Rick Scott [touts his gambling deal](#) as a win for the state and the Seminoles salute him, other players in the world of high-stakes gaming are less than thrilled.

The governor told reporters on Tuesday that the agreement is "a good transaction for the taxpayers of the state," and Seminole Tribe of Florida chairman released a rare statement praising Scott "for his leadership in working with members of the Senate and the House to finalize this important Compact for our 4,000 Seminole Tribal members and for all Floridians," adding that the compact "not only saves 3,500 jobs, but it will also allow us to work with the state creating 15,000 additional jobs."

But the legislative fate of the wide-ranging compact is still far from clear, and some stakeholders see the compact signed by the governor as a starting point for the real negotiations. The governor himself told reporters that he's just "the first step in the process," and that the Legislature "will make a decision if they even want to look at it, if they want to review it. It's completely up to them."

The governor's rhetoric on the compact is noticeably passive compared to the way he has pushed his budget plan, even going on a statewide tour to drum up support for his \$1 billion tax cut proposal.

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Any attempt at changing the state's patchwork of gambling laws could lead to a protracted policy fight because of the many fractured interests. Incumbent stakeholders like things the way they are, while some aspiring players

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package for outgoing CEO are ready to kill the deal if they don't get more.

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Among the most contentious issues at play is the matter of slot machines outside of Miami-Dade and Broward counties.

The compact would allow for legislative approval of slots (with a \$5 maximum bet) for the Palm Beach Kennel club, but that could set up a regional parimutuel fight as tracks in other counties may seek to carve out a similar deal for themselves.

Gretna, a racetrack in Gadsden county, is [seeking support from the Supreme Court](#) to have slots after voters there approved it in a referendum, as did several other counties. If the court rules against them, a push for the compact to include slots in the state's only predominantly African-American county could sway the Legislature's black caucus.

Melbourne Greyhound Park in Brevard County is also likely to seek slots approval, and the Brevard delegation, which includes House Speaker Steve Crisafulli and House rules committee chairman Ritch Workman, could face pressure to work Melbourne into the deal or vote no on the whole package.

The compact could also make way for a new slots license in Miami-Dade County with voter approval. That license could have at least one deep-pocketed suitor. Malaysian casino giant Genting already has a foothold in the county after it bought the Miami Herald building for \$236 million several years ago, but the downtown waterfront property now sits vacant.

The prospect of a new slots player in Miami-Dade County has elicited concern from at least one current casino.

Isadore Havenick, a vice president for Magic City Casino, told POLITICO Florida that a new slots facility in Miami-Dade "would hurt us tremendously," though he's doubtful the Legislature will approve it.

"I don't think the state of Florida should be picking winners and losers," Havenick said, adding that Scott "should make sure that his local businesses are able to continue to operate, pay taxes and employ people like they have for 90 plus years."

One issue Havenick does support is a potential cut in taxes for parimutuels down to 25 percent from the current 35 percent. While he said the idea of limited blackjack is an appealing one, what it would take to get there, which includes voter approval, is "all but attainable."

Danny Adkins, president of Mardi Gras Casino in Hallandale Beach, had similar gripes with the potential for blackjack. While blackjack would make a "nice addition" to the games currently offered, the limits — a max of 15 tables with a \$15 maximum bet — leave an "unlevel playing field" in comparison to the tribe.

While the parimutuels sort out slots and blackjack, the compact could also set up a fight between racetracks and associations that represent horse and dog owners and breeders.

Current law requires parimutuels to continue running races (or having jai alai matches) in order to offer slots and poker. The compact would allow the Legislature to let tracks

keep their slots and poker rooms without having to run races anymore — an idea called “decoupling.”

Decoupling has been pushed for years by animal rights groups, particularly when it comes to greyhound racing.

Groups like GREY2K USA say the practice is inhumane.

“Thousands of dogs live lives of confinement in this industry,” said Carey Theil, executive director of GREY2K USA in a phone interview with POLITICO Florida.

Theil pointed to a [joint report with the ASPCA](#) that he said documents the high number of deaths and injuries in the industry, though a lobbyist for the Florida Greyhound Association says the dogs are treated humanely and “with love and affection.”

The Florida Greyhound Association is opposed to decoupling and believes any effort to address it should not be in a compact bill.

“If there is support for ending live Parimutuel racing and matches putting thousands of Horse and Greyhound owners, breeders, trainers and Jai Alai players out of work, then that legislation should stand on its own,” said a spokesman for the association in a statement.

Meanwhile many dog tracks are clamoring for decoupling because it’s not a money maker. Havenick said his company loses about \$4 million a year on dog racing.

Decoupling for dogs has garnered widespread support in the Legislature in the past, but decoupling for horses and jai alai may be a tougher sell.

Joe Penacchio, president of the Florida Standardbred Breeders’ and Owners’ Association, characterized the possibility of horse decoupling as a “moral issue of 20,000 jobs in quite a sizable industry ... being threatened with closure.”

The potential for policy fights extend beyond slots and racing.

One provision of the compact stipulates that if internet gambling is allowed by the state, then guaranteed minimum payments from the tribe would stop unless the tribe itself starts offering internet gambling.

The Legislature is considering a [bill](#) that would create a legal framework for daily fantasy sports, as offered by websites like DraftKings and FanDuel. That bill is [backed by Senate President-designate Joe Negron and state Rep. Matt Gaetz](#).

How that bill would affect internet gaming under the compact is unclear. Some see daily fantasy sports as gambling, and it was categorized as such by the Nevada Gaming Control Board this year. However, Brian Ballard, a lobbyist for the Fantasy Sports Trade Association, told POLITICO Florida that he’s “comfortable” with the way the compact is written based on a [federal law](#) that he says defines fantasy sports as a game of skill.

Another complicating factor, and perhaps the only bone thrown to parimutuels that legally cannot offer slots, is the matter of “designated player games.” Those games are run in casinos by a third party company wherein players take turns acting as the house. The games have taken off in card rooms around the state as the popularity of poker games like Texas Hold ‘Em has dropped off.

The compact would allow for casinos that do not offer slots to offer designated player games, but would limit those games to ones with a minimum of three cards (such as three-card poker) and a maximum bet of \$25. Nick Iarossi, a lobbyist for a designated player games company, told POLITICO Florida that while he's glad designated player games are in the compact, he thinks it's too restrictive, and wants to allow the games in Miami-Dade and Broward, where casinos offer slots.

While the state's many gaming interests vie for a bigger piece of the action, one group questions whether the Legislature even has the constitutional authority to implement much of what the compact would allow for.

Scott argues the compact "limits the expansion of gaming in the state," pointing to caps on certain Seminole gaming activities, but John Sowinski, president of NoCasinos.org argues just the opposite.

"We're disappointed that the compact provides for expansion of gambling both on and off tribal reservations," he said, explaining that the original compact in 2010 was sold "as a way to stop the expansion of gambling."

Sowinski's group was granted permission on Tuesday to file a friend-of-the-court brief in the Gretna case. Sowinski said he plans to argue that because the state's constitution bans lotteries, which he said includes any game of chance, "the legislature doesn't have the authority to legalize gambling without a constitutional amendment."

Parimutuels were grandfathered in under the 1968 constitution. Voters passed a constitutional amendment in 2004 that allowed voters in Miami-Dade and Broward counties to decide if they wanted to allow the machines in their counties.

The Legislature amended the state's gaming laws in 2009, granting slot machine eligibility to licensed parimutuel facilities, such as horse and dog tracks, "in any other county in which a majority of voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization."

Gretna argued this meant the Legislature had given approval to every other county with parimutuels to hold slot machine referenda.

An appeals court in Tallahassee disagreed in a [reversal of its own ruling](#), and Gretna is appealing that ruling to the Supreme Court.

In Sowinsky's view, the Legislature would not have the power to allow slots outside of Miami-Dade and Broward counties, nor would it have the power to allow blackjack in casinos in Miami-Dade and Broward. Sowinski even goes so far as to question a provision of the compact that would grant the Seminoles the right to offer live table games like craps and roulette.

"On what authority?" Sowinski asks, noting that the federal law allows for tribes to operate whatever forms of gambling are already legal in the state. While live table games fall into the same legal category as Las Vegas style slots, which was authorized in Miami-Dade in Broward after the passage of the constitutional amendment, Sowinski argues slots and table games (and even blackjack) are different forms of gambling.

If the court rules against him, Sowinski said, he's prepared to push a proposed constitutional amendment that would give voters the exclusive authority to legalize

casino gambling. His "[Voters in Charge](#)" amendment already has a \$195,000 war chest, but not verified signatures so far.

But if the court does rule for Gretna, that could open up a whole new problem.

One provision of the compact allows the tribe to claim a violation of exclusivity if a judge rules Las Vegas style casino games like slot machines and blackjack are allowed in places where they are not currently permitted. If the tribe does claim a violation, then revenue sharing payments can be put into an escrow account for up to 12 months, allowing for the Legislature or a subsequent ruling to reverse the ruling.

With a grab bag of gambling issues and millions of dollars at stake, coupled with many conservatives in the Legislature who are ideologically opposed to gambling, the question becomes what version of the compact the Legislature can cobble together that will not only pass, but be accepted by the tribe.

The big test may be whether the proposed version gets through the Senate Regulated industries committee.

"I really wanted all the personalities on that committee," said Senate President Andy Gardiner in a recent interview with POLITICO Florida. "If you look at the Senator Floreses, which are anti-gaming, then you have Senator Latvala, who's very close with some of the parimutuels ... whatever comes out of there, I felt as though it would probably be a pretty good product because it just had so many personalities on there."

Because of the committee's "strong personalties," Gardiner said "you could sell tickets to Regulated Industries."

*CORRECTION: This story initially misspelled the surname of John Sowinski. The story has also been updated to include comments from the Florida Greyhound Association.*

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