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High court: Crist overstepped on casino deal

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Article Text:

The Florida Supreme Court ruled Thursday that Gov. Charlie Crist overstepped his authority when he unilaterally allowed the Seminole Tribe to exclusively offer baccarat and blackjack at their casinos. But the games will go on, at least for now, while the tribe mulls its options during the heavy-betting July 4 weekend.

The big loser: The state budget, which will be denied hundreds of millions in future gambling revenues that Crist had negotiated for Florida in return for allowing the table games.

The big winner: Florida House Speaker Marco Rubio, an anti-gambling West Miami Republican who filed suit in November, saying Crist needed the Legislature's approval of the deal he struck with the tribe.

The ruling ducked the question of whether the governor can unilaterally negotiate any similar agreement. But the justices all agreed that this deal was bad because Crist unlawfully tried to legalize illegal gambling without a vote in the Legislature.

"What is legal in Florida is legal on tribal lands, and what is illegal in Florida is illegal there," Justice Raoul Cantero wrote in the majority opinion that struck down the deal, known as a compact.

"The governor does not have the constitutional authority to bind the state to a gaming compact that clearly departs from the state's public policy by legalizing types of gaming that are illegal everywhere else in the state," the opinion said.

Crist, on vacation, wasn't available for comment and his spokeswoman didn't return calls on the matter, saying in an email that Crist's office is "currently reviewing" the ruling.

Rubio hailed the decision as a "victory for our constitutional system of checks and balances." He told The Miami Herald that Crist should entirely scrap talk of table games with the tribe and figure a way to allow the Seminoles to have Las Vegas-style slot machines at its seven casino properties throughout the state. In return, the tribe would give the state a cut of its slot-machine money.

Rubio said the Legislature would have to sign off on the deal because it would allow for the slot machines outside of Miami-Dade and Broward counties, the only two areas where they're permitted right now.

"! You can expect the anti-gambling Legislature to strike the best deal for Florida, which is a fair tax rate," Rubio said. "The Florida House is just not going to legalize baccarat and blackjack."

George LeMieux, the former Crist staff chief who negotiated the compact, said neither Rubio nor the high court understood the nature of the negotiations, which took place amid the "murky" and "contradictory" backdrop of conflicting state, federal and tribal laws. He said he believes the justices erred because federal Indian gaming law can supercede state gaming laws.

"It's easy to sit in the Legislature and criticize this. But what the Legislature didn't do this year is take up two bills to ratify the compact or change its terms," LeMieux said.

He added that the U.S. Department of Interior, which nominally oversees Indian gaming, had told the state that the tribe had a right to Las Vegas-style slot machines at all its casinos because negotiations

with the state had broken down for so many years.

In order for the state to regulate the games and some cut of the revenues, LeMieux said, Crist had to offer the Seminoles something more: table games.

"We had to offer them something to get something," LeMieux said. "Now the tribe will get its slot machines everywhere it wants and the state will lose hundreds of millions, if not billions, of dollars. The Seminoles will have their cake and eat it too."

Meantime, Seminole spokesman Gary Bitner said the games will continue at the Hard Rock casino near Hollywood while the tribe determines its next step.

"The tribe is studying the decision and plans no immediate changes, and strongly believes it was operating with a federally approved compact agreement by adding the games it added," Bitner said.

The Legislature's top gambling expert, Cooper City Sen. Steve Geller, agreed that the tribe would likely keep its popular table games while the ruling is appealed. A federal court order would probably be needed to halt the games, he said. The U.S. Department of the Interior has jurisdiction over Indian gambling.

Gambling competitors of the tribe welcomed the ruling.

"I'm happy. I just wish it'd come a little sooner," said Dan Adkins, who runs the Mardi Gras Racetrack and Gaming Center in Hallandale Beach, one of three state-regulated casinos in Broward County. "The real question is, what happens now? The responsible thing to do would be to call a special session of the Legislature and deal with it."

The Broward casino operators say they are struggling with a 50 percent state tax on revenues, especially when compared with the tribe, which pays no state tax.

Crist likely has four basic choices: appeal, negotiate a new compact for Las Vegas-style slots only, ask the anti-gambling Legislature to sign off on the deal -- a tough sell from his fellow Republicans -- or walk away from the compact and leave the matter in the hands of the Interior Department.

Attorney General Bill McCollum, a Republican like Crist and Rubio, is evaluating his options, according to a spokeswoman. McCollum had called the compact "a very questionable act" and unsuccessfully asked a federal court to block the agreement until the Supreme Court ruled.

Though some are pushing for a special lawmaking session to resolve the matter, it appears unlikely during an election year. Crist and Rubio, who have clashed on a handful of other high-profile issues like taxes, aren't likely to agree. Just the day before the ruling, Rubio bashed Crist's Lottery department for joining the mega-jackpot Powerball game. Rubio said the new game would help balance the budget on the backs of the poor and elderly, who tend to play lottery games.

The Seminole gambling agreement has had a long and troubled history spanning 16 years and the terms of four governors. When it was finally signed in November, the compact allowed the tribe to offer Las Vegas-style slot machines, blackjack, baccarat and other table games at its seven Florida casinos in exchange for payment to the state.

The tribe has already sent a \$60 million payment as part of the deal that was expected to generate at least \$100 million a year for the state. Rubio's counterpart, Senate President Ken Pruitt, hailed the ruling on similar grounds and noted the Seminole Tribe can take back the \$60 million it already gave the state.

Justice Fred Lewis said in a concurring opinion to Thursday's ruling that Crist had the authority in general to execute the compacts, but the governor shouldn't have tried to legalize illegal gaming on his own. Lewis said Crist was trying to do what was best for the state, considering years of legislative inaction over the Seminole compact.

The tribe, which purchased the Hard Rock hotel and casino chain last year for \$965 million, installed Las Vegas-style slots in January, and unveiled the new table games June 22 in a celebrity-studded event at the Seminole Hard Rock Casino near Hollywood.

In the first week of play, about 40,000 people have wagered at the new tables, Bitner said.

"We want people to know they can come out and play this holiday weekend," Bitner said. "At this

moment, it's hard to get a seat at the tables because so many people want to play."

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