



State's top court strikes down casino deal

By Joe Follick

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TALLAHASSEE — Dealing Gov. Charlie Crist one of his biggest political setbacks, the Florida Supreme Court on Thursday said he had unconstitutionally exceeded his power with last year's agreement to expand gambling at seven Seminole Indian casinos.

The Florida House and Senate sued Crist, saying the Legislature needed to approve the deal.

But the court bypassed that argument, saying that Crist had erred in allowing gambling options like blackjack and slot machines at the Seminole casinos that are illegal in the rest of the state.

"The governor has no authority to change or amend state law," the court said in a 7-0 ruling. "Such power falls exclusively to the Legislature."

The decision means the state will likely return \$50 million it received from the Seminole Tribe in January. The money had not been spent as lawmakers waited for the court decision.

It could also cost the state hundreds of millions of dollars in expected payments from the Seminoles in coming years. And it is not clear if the seven casinos operated by the Seminole Tribe of Florida will have to give up thousands of new slot machines

and blackjack tables installed as part of the agreement.

The Seminoles operate seven casinos including the Seminole Hard Rock Hotel and Casino in Tampa.

It only took a few hours after Thursday's decision for a discussion of options, such as appeals to federal court or a possible special session for legislators to vote on the deal.

Chris Kise, a former top aide to Crist who represented the governor in the case, said federal courts might be asked to rule on the matter, which involves the tangle of state law, federal law and the unique rights of Indian tribes.

A lobbyist suggested Crist might call lawmakers to Tallahassee for a special session that could finally settle the matter.

"I think the governor is going to haul them back and here and say: 'You're the decision makers. Give us a vote up or down,'" said Marc Dunbar, a pro-gambling lobbyist.

In a statement from spokesman Gary Bitner, the tribe said that the decision was disappointing, and that since it is not final until the court rules on a motion for a re-hearing, the tribe would continue to operate its new gambling options.

"Depending on the final decision by the court, the tribe may seek review by the United States Supreme Court," the statement said. "The tribe is under no legal obligation to suspend its operation of banked card games or any other games."

House Speaker Marco Rubio, R-West Miami, said the decision was a "victory for our constitutional system of checks and balances. I look forward to an open and deliberative process that results in a new compact that doesn't unnecessarily expand gambling in our state and that's fair to our taxpayers."

Crist was not available for comment Thursday and his office issued a terse statement in response to media requests: "The governor's office is currently reviewing the order issued this morning."

The decision is the latest twist in a 16-year saga to determine if the state could obtain revenue from gambling at Indian casinos.

Federal law allows Indian tribes to host the same levels of gambling as the surrounding state allows. Voters approved slots at existing dog and horse tracks and jai-alai frontons in Broward County in 2005 and in Miami-Dade County earlier this year.

That opened the door for the Seminole Tribe to seek expanded gambling for Las Vegas-style slot machines and "banked card games" such as blackjack and baccarat.

The federal government set a deadline for last November to reach an agreement. The result was a festive ceremony in the governor's office as Crist and Mitchell Cyprus, chairman of the Seminole Tribe of Florida, signed the deal.

"If we don't do it, the federal government would do it anyway and we get zero," Crist said last year.

But the agreement angered lawmakers who have staunchly opposed any expanded gambling in the state.

The court's decision said that they could find no other "compact," a deal negotiated between the state and another sovereign government, that had been entered into by Florida without legislative involvement or approval.

The court said that the existence of newly expanded gambling in pari-mutuel facilities in Broward and Miami-Dade counties did not entitle Seminole casinos to gambling not permitted statewide.

"The governor does not have authority to agree to legalize in some parts of the state, or for some persons, conduct that is otherwise illegal throughout the state," said the decision, written by Justice Raoul Cantero, who was appointed by Gov. Jeb Bush.

Cantero is resigning this September. "What is legal in Florida is legal on tribal lands, and what is illegal in Florida is illegal there."

Justice Fred Lewis agreed that Crist should not have allowed the Seminoles to have so-called "Class III" gaming that is illegal in the rest of the state.

But in a separate opinion, he said Crist had the right to sign a compact with the Seminoles since lawmakers have refused to act for 16 years despite federal pressure, creating a "void by governmental inaction or a total vacuum in an area."

"Despite the fact that this gaming issue existed and the tribe actively sought to negotiate resolution in a compact for almost sixteen years, the Legislature having full access to the information and issues did not act," Lewis wrote.

Lobbyists for South Florida pari-mutuels welcomed the decision, but said they still needed lawmakers to give them more options to compete with the tribe casinos.

"It's a monster win," said Dunbar, a lobbyist for Gulfstream Park in Broward County, "but we're still getting thumped by the gargantuan empire that they have."