

Ohio Casino Vote No Holy Grail As Political Backlash Brews

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Voter-backed plans to build four Las Vegas-style casinos in Ohio could stall as observers speculate on the likely political responses from state lawmakers effectively sidelined from the expanded gambling process.

Proposals for Vegas-style casinos in Cleveland, Columbus, Cincinnati and Toledo got the formal green light after Ohio voters [approved amendments to the state's constitution](#) in Tuesday's public ballot.

But as voters draw breath following weeks of intensive campaigning leading up to the referendum, observers believe they could be asked to rubber-stamp additional changes to the constitution's gambling provisions next year, possibly in a political move to raise the casino tax rate and licence fees that were proposed on Tuesday's ballot paper.

The prospect of further wrangling over expanded gambling in Ohio comes after Governor Ted Strickland's and the state legislature's efforts to expand gambling via video-lottery terminals at state racetracks were [held back by a Supreme Court decision](#) requiring the governor to obtain prior voter approval for the VLTs.

The legal hold-up allowed casino proponents Penn National Gaming and Cleveland Cavaliers owner Dan Gilbert to jump the gun by getting their urban casino proposal approved ahead of the state-backed VLTs.

Tuesday's vote authorises one casino in each of Ohio's four largest cities, with Penn National slated for the development of Columbus and Toledo casinos, and Gilbert and casino firm partners to build and operate the Cleveland and Cincinnati properties. According to the measure, the casinos would each be subject to a 33 percent tax on gaming revenues as well as upfront licensing fees of \$50m. A minimum capital investment of \$250m is required for each of the resorts.

But state lawmakers are still required – within six months – to draw up more precise regulations to govern the casinos and the licensing process, raising the possibility that politicians could now seek to amend the licensing terms to impose higher fees and taxes that are considered by some to represent a bad deal for the state.

Michael [Zatezalo](#), a Columbus-based attorney with the firm Kegler Brown Hill & Ritter, said that a second public vote on the casino measure is already likely to come next year in order to “clean up” how the provision affects the state's charitable gaming sector and clarify other minor legal matters such as the tax treatment of slot machine tokens.

The more significant issue, according to [Zatezalo](#), is whether state politicians could also seek to put more substantive changes to a public vote, including a possible requirement for a competitive licensing process for the casinos.

“The key question on everyone's minds is could they go and undo what has already been voted on,” [Zatezalo](#) told GamblingCompliance. “I don't know how far they will go with that.”

He added: “Will the legislature, now it is obligated to put in a regulatory scheme, create a cumbersome licensing procedure and so forth?”

“Winning approval for a proposal by popular election is the holy grail in gaming legislation,” said

Shaun Kelley, gaming analyst with Bank of America/Merrill Lynch. "However, our experience suggests [the Ohio casino measure] will not go unchallenged."

"We see the most contentious elements as: one, the 33 percent tax rate (legislators have noted it's too low, and Strickland's prior racino [VLT] legislation contemplated a 48 percent rate), two, lack of competitive bidding for licences, and three, the creation of a license duopoly.

"To alter the changes made to Ohio's constitution requires approval of another referendum (with the soonest election being November, 2010), though it's unclear if implementation could be held up due to a legal challenge."

Another factor up in the air is the future of Gov. Strickland's earlier [proposal to install up to 17,500 VLT gaming machines at the state's seven racetracks](#).

At present, the measure similarly stands to go to a public referendum next year. But just to make it on to the November 2010 ballot paper would require petitioners to collect around 250,000 signatures by mid-December. And whether it would even receive voter approval is especially doubtful after Tuesday's casino vote, according to Bill Lerner, principal gaming analyst at the Las Vegas-based advisory firm Union Gaming.

"With the passage of full casino gaming it might be less likely that there will be voter appetite to approve slots at the state's seven racetracks on the November 2010 ballot," Lerner said.

However, there is still legal debate as to whether Gov. Strickland could revisit the racetrack VLTs and seek to introduce them via an executive decree, said Zatezalo, adding that a key factor would be whether the state's racetrack interests such as operator MTR Gaming now pressure the governor to push through his racino initiative.

Announcing the company's third-quarter results on Wednesday, MTR's president and CEO Robert Griffin acknowledged the Ohio casino vote would mean greater competition for Ohio gambling spend from around 2013, when the casinos were up and running.

However, he expressed confidence that tracks such as MTR's Mountaineer would likely have their own slot machine facilities by then.

"We are considering several different alternatives in order to proactively prepare for the new competition," Griffin said.

"Although this may appear to be a negative, we believe that it may result in slots at tracks, as the Governor has proposed, with better economic terms than were originally discussed. To that end we are working diligently to have this initiative reintroduced in the state."

MTR shares dropped 38.9 percent after the Ohio vote and third-quarter results that showed net revenues of \$119.5m down 9 percent on the prior year period. By contrast, Penn National Gaming's shares were up 8 percent on Wednesday.

Bank of America's Kelley said Penn National stood to be the "big beneficiary" of the Ohio casino vote. But he also said the casino approval represented a positive for gaming machine suppliers including IGT and WMS, who would be likely to gain a 45 and 25 percent share respectively of the possible 8-12,000 slot machines destined for the casinos, Kelley said.

Union Gaming's Lerner predicted that the Ohio casino vote is also likely to provoke a political response in other states mulling their expanded gambling options.

"We also think the propensity for gaming expansion in Kentucky is now materially greater following Ohio's adoption of casinos," Lerner said.

Gov. Strickland's original racetrack VLT proposal had been [tipped to](#) provoke a copy-cat response in nearby Kentucky, where state senators [rejected a proposal earlier this year](#) to introduce racetrack slot machine gambling.

Republican figures in the Senate have more recently proposed Kentucky hold its own referendum on expanded gambling in 2010. But the state's Democratic Governor Steve Beshear said he believes the approval of casinos in Ohio now adds urgency to the process in Kentucky, urging the legislature to instead consider a revised version of the racino bill he backed earlier this year.

"Clearly, the time to act on expanded gaming is now," Gov. Beshear said after the Ohio vote.

"Ohio citizens are going to reap the benefits of thousands of new jobs and millions of dollars in tax revenue. Ohio's decision reinforces the urgency to pass the video lottery terminal bill I proposed earlier this year."