

Some say sports betting was doomed from the start

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By Doug Denison, Staff Writer
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Dover, Del. -

On May 8, when the Delaware House of Representatives was meeting late into the night to hammer out an agreement over the bill to legalize sports betting, most of the debate was over whether the state's three casinos could bear a higher tax rate.

Circulating in the background, however, was the spectre of a possible lawsuit against the state by some of the most powerful business enterprises in the country.

Days before, representatives from the NFL and the NCAA had all but promised to sue the state if it attempted to move forward with sports betting, specifically bets on single games.

The House passed the bill that night, the Senate approved it shortly thereafter and Gov. Jack Markell signed it into law the following week.

Two months later, the leagues made good on their threat and filed a lawsuit in U.S. District Court.

On Aug. 24, the two sports organizations, joined by Major League Baseball, the NHL and the NBA, were vindicated by a federal appeals court that ruled Delaware is not allowed to offer single-game bets.

Though the state still can appeal the decision and at least will be able to offer parlay bets on football games, the estimated \$17 million in state revenue expected to come from sports betting is in jeopardy.

Many legislators and state officials said they were surprised by the decision, particularly since three 3rd U.S. Circuit Court judges took a hearing on an injunction request filed by the leagues and used it as an opportunity to invalidate Delaware's entire plan.

Some, however, saw the writing on wall back in May.

"The administration played chicken with the wrong bunch, and it was very predictable," said Sen. Joe Booth, R-Georgetown, who was a state representative at the time. "[The leagues] said so on the House floor and apparently no one was listening."

Booth, who voted against the bill, said he was never satisfied with the Markell administration's answers to the question of legality.

"I have just been really disappointed with the procedure on this whole deal. I think people have gotten a song and dance in terms of sports betting and how it was going to be the savior for Delaware's financial

problems," he said. "They overlooked some of the 'i's that needed to be dotted and the 't's that needed to be crossed."

The senator also felt the state was trying to beat the system by getting sports betting off the ground before a lawsuit could go to trial.

"To me it looked like, 'If we get it operating then the courts will find in our favor, if we can show that there would be harm done to the state,'" Booth said. "I had problems with that type of approach."

Dover Sen. Colin Bonini, another Republican who opposed the bill, said the administration failed the legislature and the taxpayers.

"Evidently we didn't do our homework, primarily the governor's office," he said. "I think that sports betting was wrong on a lot of levels philosophically, and one of the levels is that we were, no pun intended, betting on betting. We didn't know that we could do this and it was tremendously irresponsible for writing those perceived revenues into the budget."

Other legislators were more forgiving of the administration's choice to press for full-tilt sports betting, even in light of the legal ambiguities and the stern warnings of a lawsuit.

"Everyone knew this was a possibility and we lost," said Rep. Greg Lavelle, R-Sharples, who voted for the bill. "We went for the big lottery and didn't get it all. I don't have any criticisms of anybody on that, we gave it a whirl and knew it was a risk, but we ended up with the parlay anyway, which is what some folks thought we would get."

Rep. Darryl Scott, D-Dover, said he was encouraged when the state Supreme Court ruled May 28 that sports betting would not be unconstitutional, despite the fact that the court said nothing about the legality of single-game bets.

In an effort to bolster his position, the governor requested and received an advisory opinion on sports betting from the Supreme Court after the law was signed.

"It was a legitimate concern to be raised, but once we got through our Supreme Court ruling I felt more comfortable with the prospects of having a single bet," said Scott.

Still other legislators say even though state has suffered a setback, the potential budget deficit created by the loss of single-game sports betting is by no means catastrophic.

"The reason I'm not too terribly upset about it at this point is because we need to recognize that the total amount of additional revenue that the state was looking at under best case scenarios was about \$17 million," said Sen. Brian Bushweller, D-Dover North. "We will experience some of that revenue, we don't know how much it's going to be yet. The worst case scenario is we lose in, terms of state revenue, something less than \$17 million, and in a \$3 billion budget, it's not the end of the world."

Booth, however, is not convinced that the administration's risk-reward scenario was in the state's best interest.

"The bottom line is I wasn't surprised at the decision, I don't think anyone was surprised that the NFL and the other sports institutions took Delaware to task," he said. "It's been very frustrating to see this happen and bank the budget on such a cavalier way to do business."

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