

CBA

CITIZENS FOR A BETTER ALABAMA

To: Interested Persons
Date: March 2024
From: A. Eric Johnston
RE: Alabama Gaming Control Act - 2024 Regular Session
HB 151(Constitutional Amendment)
HB 152 (Enabling Legislation)

The purpose of this memo is not to summarize or explain the bills. Others have done that. Its purpose is to explain these provisions which create a gambling empire of corruption and deception of the Alabama public. This analyses the House Engrossed Version. There will be amendments.

This bill creates a gambling monopoly for casino sports wagering, and a lottery, and a Poarch Creek Indian (“PCI”) Compact for expanded Indian venue gambling. Gambling and regulation of gambling is a law unto itself.

During 2023, a legislative committee met secretly and was not open to the public. While the Open Meetings statute does not apply to the legislature, these meetings took place to shroud in secrecy the efforts to legalize gambling in Alabama. Continuing this veil of secrecy, the bill attempts to codify the singular authority of the Alabama Gaming Commission (“AGC”) and allow it to operate without any oversight.

The CA allows any form of gambling. Therefore, only a statute enacted by the Legislature, but not the people, is all that is necessary to further expand gambling at a later date.

Existing gambling venues may continue to operate until January 1, 2027. These are the bingo/slot machine operations which are currently unlawful, but for which there is no law enforcement. This gives the gamblers the opportunity to continue making money while they are working toward the changeover to “lawful gaming.”

No future CA that affects gambling for less than the entire state may be approved by the voters. It is nonsensical to say that the Alabama Constitution cannot be amended by the voters. This is evidence of the corrupt nature of the proposal.

Ten casinos are authorized, but there could be more. There are six specifically named plus one for the PCI off nontribal lands. The PCI has three now, so that equals ten. However, a compact required by the bill would allow Class III gaming on any tribal land and therefore no limit. Additionally, while sports wagering may be online, there is no restriction for opening “betting parlors” anywhere.

An Alabama Gaming Commission is established. It is an appointed commission and is not elected by the public. In other words, members of the commission are answerable only to themselves. The AGC regulates all gambling. The AGC would have its own police force.

AGC records would be public, but it has withholding discretion without an objective standard. Anyone with Freedom of Information Act requests experience knows this is a problem. It is an opportunity to hide information. Courts will have no jurisdiction to enforce a FOIA request.

Authority is given the AGC to enforce civil penalties, including the power to arrest. There is no court jurisdiction for an aggrieved person. This violates the due process rights of those who may be involved in the gambling industry and everything related to it.

When a casino is to be located in a city or county it may be approved by local referendum or simply by a resolution of the city council or the county commission. There is no transparency and the ability to regulate gambling is very limited and likely beyond the public’s involvement.

A lottery board is exempt from the state procurement law. Again, there is no transparency for the public and ripe for corruption.

There are criminal penalties for violations of the law. These are many of the existing code sections for unlawful gambling. The penalties are not appreciably increased and some places not increased at all. The deterrent to unlawful gambling is sufficient criminal penalties in order to deter the offenders. When the penalties are minor, the offenders keep doing business. As has been noted before, the answer to unlawful gambling in Alabama is to increase criminal penalties, not to allow the gamblers to continue with virtual impunity.

The conclusion is that the AGC will operate gambling of every kind, without oversight, for the benefit of the gambling industry. Lack of law enforcement interest and mild penalties will encourage unlawful gambling, the very reason gambling advocates give for the necessity of this legislation.

As the legislative process unfolds, we will see if those behind these bills will continue their secretive overbearing dictatorial disregard of openness and fairness in the consideration of these bills. Will there be open and equal debate of whether gambling should be legalized and monopolized? Or, will the selfish gambling profiteers deceive their way into legal protection?