

A LOSING BET?

FILLING WISCONSIN'S BUDGET WITH CASINO REVENUE

MELANIE FONDER

Legislative Republicans are vindicated for now with the 4-3 state Supreme Court's ruling in their favor, which challenged Democratic Governor Jim Doyle's authority on gambling compacts. But what's next might very well turn into a case they might come to wish they had never won.

The politically-tinged dissent by three of the justices began with a catchy lead – All Bets Are Off. That captures the ensuing confusion over what's next in the state's growing war over gambling.

In the immediate future, though, some \$200 million in payments from the tribes for the new compacts negotiated by Doyle stand in doubt.

Questions raised by the dissent go to the political practicalities. How to fill the budget hole that likely will be created? How or even will the new, supposedly illegal, casino games be shut down? What happens between now and the end of the lengthy appeals process?

Or the situation could put Doyle in a very tight spot. If new compacts generate less revenue, the Republicans can say they're bad deals. If Doyle is able to get more money, the



previous compacts can prove the original argument that Republicans believed they were bad deals for the state.

The state's 11 Native American tribes had already made their move to become one of the top money-machines in Wisconsin politics in the 2002 gubernatorial election. Their influence is only expected to grow in coming races — and

Republicans aren't likely to be the beneficiaries of the winnings.

Even before the Supreme Court decision, it was unclear whether the tribal payments would come in on time, mainly due to the GOP lawsuits. Now it's too early to say who will ultimately take the blame for the multi-million dollar hole in the state budget.

Money in question

A majority of the lump-sum payments from the tribes to the state for the new amounts negotiated under the compacts last year are due June 30 for the first of the two-year budget cycle.

The total due for fiscal year 2004 is about

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\$102 million and with those tribes who have payments due June 30, the figure is about \$99.2 million. This budget cycle ends June 30, 2005 and Doyle will propose a new budget early that year.

Department of Administration Secretary Marc Marotta suggested before the Supreme Court decision that the tribes might withhold payments regardless because of the lawsuit. He says that if the payments aren't made, it will blow a hole in the state budget.

"The question is, is the state going to get any money? At the end of the day, is this going to deprive the state of much-needed funds?" Marotta says.

The tribes will continue casino operations, payments or not. "I will tell you the gambling will continue," Marotta says.

Marotta said the GOP lawsuit also threatens tribal investments in economic development, charities, and other projects that benefit tribes and non-Indian communities.

He noted the Republican majority put the compact payment money in the budget.

At stake is a big budget hole and lots of jobs and spending on economic development. I don't understand what they want. I don't understand what their objective is. What's the end game?

Marotta says the process with the new compacts is still being worked out. Marotta says state officials "haven't had any difficulties" with the new compact arrangements. "We're still hoping to work through permanent (casino game) rules."

In the meantime, the state has borrowed rules from New Jersey. The Lac du Flambeau remains the only tribe of the eleven in the state that has not signed a new compact.

Court cases

The two cases making their way through the court system now are being closely watched because of the impact they already have on the compacts. In one case, the state Supreme Court recently deadlocked 3-3 on

whether gambling agreements in Wisconsin are even legal. That case now goes back to the appeals court.

The other is the 4-3 decision in May from the state Supreme Court that appears headed for federal court, although it's unclear whether Doyle or the tribes will appeal.

Many who are closely monitoring the cases expect a federal court to uphold the Doyle compacts, even though the state high court has overturned them. The federal courts are generally friendly venues for tribal issues, and as the dissent suggests, that is where the matter is likely to be resolved. "Ultimately, we conclude that the 2003 amendments are valid and that the majority opinion raises substantial federal issues, which inevitably will be resolved in federal courts," the dissenters say.

Regardless, case law on gambling in Wisconsin is a long way from being completely resolved. And the hovering of those lawsuits over the political landscape could keep the state facing the multi-million dollar budget hole for years to come.

Tribal involvement in politics grows

Tribal involvement in the 2002 gubernatorial race between Democrat Jim Doyle and Republican Scott McCallum was just the beginning, political observers say, of what they expect to become one of the top lobbying powerhouses in Wisconsin.

"They're just going to carpet-bomb money," in future races, predicts Steve Baas, spokesman for Republican Assembly Speaker John Gard.

Democrats stand to gain huge dividends from a group that is likely to have the heft of the typically top two politically active funding groups: Wisconsin Manufacturers & Commerce and the Wisconsin Education Association Council.

And Democrats are lavishing attention on the tribes — at this year's annual state Jefferson-Jackson Day dinner attended by several tribal leaders, the formation of a new

American Indian Caucus as part of the Democratic Party of Wisconsin (DPW) was announced.

In April, Ho-Chunk president George Lewis attended a fundraiser of well-heeled donors in Chicago for Democratic presidential candidate John Kerry. Lewis may play a role as a liaison between the tribes and the Kerry campaign.

“You're talking about an interest group that was not on the radar screen for anybody one cycle ago,” says the Wisconsin Democracy Campaign's Mike McCabe. “We had not seen a lot of direct campaign contributions that were traceable to Indian tribes before now and we're just starting to see it.”

Money-tracking groups like the Wisconsin Democracy Campaign estimate at least \$725,000 was spent in the 2002 race by three Wisconsin tribes — the Forest County Potawatomi, Ho-Chunk Nation and Oneida Indian Tribe of Wisconsin — in a soft money donation to the Democratic National Committee. That money was then funneled back to the state for Doyle to use in the final days of the campaign. The Potawatomi spent at least an additional \$250,000 on its own ads supporting Doyle. The power wielded by those three tribes couldn't be missed; imagine if all the tribes pool their resources.

“I think it's pretty obvious that the tribes' investment has paid very handsome dividends for them,” McCabe says, noting that as attorney general Doyle was outspoken on his opposition to expanded gambling. “As governor, he's presiding over the biggest expansion of casinos in our state's history.”

In addition to the soft money, WDC says tribal interests gave more than \$10,000 to Doyle in hard money in the last half of 2003

after the bulk of the compact negotiations. That figure is eight times what he had received from tribal interests the previous decade.

The DPW's formation of the American Indian Caucus is its first caucus of any kind, though they are working to create an Hispanic Caucus. The DPW's Seth Boffeli says tribal leaders who “wanted to have a more formal affiliation with the Democratic Party” approached them.

“I think the big picture behind it is if you look across the state at tribal communities — when they vote — they tend to vote 80-90 percent Democratic,” says Boffeli. “Then again, turnout is low.”

To that end, the caucus is focusing on organizing in tribal communities statewide to increase grassroots participation there. A training event, emphasizing organization, get-out-the-vote efforts and voter registration, was held in Green Bay earlier this year. Others will follow.

“Democratic activists in those communities see the potential. Obviously, it benefits the Democratic

Party to have active organizations,” Boffeli says. “They want their involvement not to be just monetary but to be a voting base.”

Efforts by Republican lawmakers — to fundraise from compacts negotiated by Doyle; the legislation to usurp Doyle's compacts; and Republican Party of Wisconsin cartoon on the compacts featuring a scalping last year — are all part of the reason behind the Democratic Party's effort, Boffeli says. “Another thing driving this is the reception they've received from Republicans in the Legislature.”

But most Republicans dismiss the tribes' potential as a voting bloc; instead, they will only be significant in terms of their financial power.

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“They’re going to pay to play,” says Baas. “If money buys elections, we’ve got a problem. . . . I think what is more likely is the electorate is not as stupid as they’d like them to be.”

According to the 2003-04 Wisconsin Blue Book, there are just fewer than 44,000 American Indians in Wisconsin — out of a statewide population of more than 5.3 million.

The tribes’ initial foray into politics was a huge success, most political observers agree, because they ended up with the broad new gambling compacts that allowed for the expansion of their casinos in both games, hours of operation and length of the compacts.

Election impact

The tribes could become involved on the state level, perhaps as soon as this fall’s midterm elections. The three Democrats who switched their vote to sustain Doyle’s veto last year that would have required legislative oversight of gambling compacts — Dave Hansen of Green Bay, Mark Meyer and Roger Breske of Eland — were top Republican targets from that vote forward. Meyer has already said he will not run for re-election. But even as Republicans aim for Hansen and Breske, they could be two of the first beneficiaries outside of Doyle of tribal influence.

Whether the tribes are involved in legislative races this fall or not, many expect gambling to figure heavily into the 2006 gubernatorial race, unlike the 2002 race. That race could pit Doyle against GOP U.S. Representative Mark Green, whose 8th Congressional District encompasses the Oneida tribal lands, or Milwaukee County Executive Scott Walker, whose jurisdiction includes the Potawatomi casino.

A Republican strategist cautions that a lot can change between now and 2006, with a potential Doyle-Green match-up in mind.

“Number one, the compact saga is not over yet. So we don’t exactly know what the landscape of that issue is going to be yet,” the

strategist says. Still, “the compacts will be a very big part of the Republican governor’s race in 2006. Jim Doyle will have to explain why he did what he did.”

The same goes for a potential Scott Walker gubernatorial run. With the Potawatomi in his backyard, Walker is building a portfolio of experience on working with the tribes.

One observer close to Walker notes:

There is a lot more common ground here than people realize. Bottom line is the tribes need the state to do business and they aren’t going to just close up shop and quit the business.

And if the money Doyle purported to be the reason behind the compacts falls through, the first-term governor could be taken to task as a career insider who wasn’t willing to “take on some of the sacred cows.”

Boffeli dismisses the carryover of the compacts and subsequent fallout from Republicans in 2003. “There was a new governor. Republicans were still very upset over the way the election turned out. That was their opportunity to really jump on him.”

Wisconsin tribes haven’t had success in every race they’ve played in, though. The Ho-Chunk spent more than \$1 million — the largest in Dane County history — on a lobbying effort to create a casino at the DeJope bingo facility they operate in Dane County. The casino referendum was soundly defeated in February — 64 percent to 35 percent.

Last summer, tribal money in the special election in the 21st Assembly District didn’t help Democrat Al Foeckler. Republican Mark Honadel convincingly won that seat largely on a message of freezing property taxes even though Democrats had held it for the previous 75 years.

“No amount of money was going to convince voters that their property taxes weren’t too high,” Baas says.

Money helps, but issues are still trump.