



COOL HAND ANDREW?

GOV. ANDREW CUOMO IS PLAYING HIS CARDS RIGHT, BUT WHETHER VOTERS LEGALIZE GAMBLING STILL COULD DEPEND ON A LITTLE LUCK OF THE DRAW

By JON LENTZ



In early 1996, Rev. Tom Grey was attending a church convention in Rochester when he met a man who told him that they shared a common goal. Grey, then the executive director of the National Coalition Against Legalized Gambling, was committed to keeping casinos out of New York. Grey didn't know it at the time, but the man who approached him was a lobbyist for Donald Trump, who owned three casinos in Atlantic City and wanted to quash any competition just a few hours away.

In the following months, Grey and Trump formed an unlikely alliance of resistance. As New York lawmakers geared up to legalize casinos, Grey assembled a grassroots movement made up of environmentalists, lawmakers, local ministers, Catholics, liberal Protestants and the Christian Coalition. Trump spent hundreds of thousands of dollars on lobbyists and campaign contributions. In early 1997 the state Senate failed to pass the constitutional amendment to legalize casinos. Expanded gambling in New York had died—if only temporarily.

“At that moment, all of those forces converged, and we beat them,” Grey said in a recent interview. “This time it’s a tougher fight.”

Indeed the political landscape has changed dramatically in the past 15 years.

In Albany a constitutional amendment to legalize casinos sailed through both houses of the state Legislature twice, and will go before voters in a referendum next month. Out-of-state casino conglomerates have stayed on the sidelines in this

fight, even though properties they own might lose business to new or expanded New York casinos. Trump says he does not oppose expansion any more—and he no longer has a significant stake in Atlantic City gambling anyway. The Native American tribes in New York that operate casinos signed new revenue-sharing pacts with the governor this year, neutralizing more potential foes. The owners of the state’s racetrack casinos, or racinos, are allied in support, even though only a few will be eligible for a license.

This time around there has been only token political opposition to the expansion effort, which has been spearheaded by Gov. Andrew Cuomo. Mayor Rudy Giuliani opposed the 1997 proposal because the five boroughs were excluded from the competition. Even with New York City now off the table for at least seven years, the two leading mayoral candidates, Bill de Blasio and Joe Lhota, support the amendment. In Nassau County the Republican county chairman directed state lawmakers to vote “No” in 1997, presumably to protect the local off-track betting corporation he headed. This month both Nassau County Executive Ed Mangano and his challenger, Tom Suozzi, rallied for the amendment. Frank Padavan, a state senator adamantly opposed to gambling, was voted out of office in 2010. Environmentalists like Robert F. Kennedy Jr., a Cuomo confidant, have not waded back into the debate this year.

The physical landscape has shifted as well. In 1997 New York had just one casino, the Oneida Indian Nation’s Turning Stone

Casino. Since then, nine racetrack casinos and four additional Native American casinos have cropped up all across the state, as well as a few smaller bingo halls. In the northeast, what was then a handful of gambling locales has turned into an explosion of casinos in Pennsylvania, with several more in Maine, Maryland and, soon, Massachusetts. As the governor often points out, we already have gambling—so why not allow New York residents to spend their money here at home?

But while Cuomo has been dealt a strong hand—one he has played well—supporters and opponents alike wonder whether the views and values of New York residents have evolved enough to support full legalization of casinos. If a majority votes in favor, the governor will have once again seized on a shift in the public mood, just as the growing acceptance of homosexuality paved the way for the landmark state law legalizing same-sex marriage. If voters shoot down the amendment, it will be another failure for the governor on gambling, dwarfing his high-profile but ultimately scuttled plan to build the world’s largest convention center at a racetrack casino next to the Aqueduct Racetrack in Queens. Polls show a slight majority in favor of legalizing casinos, although the relatively low participation rate on ballot referenda makes predictions about the outcome risky.

“Look, it was always a close call in the polls,” Cuomo told reporters earlier this month. “I think if people know the facts, it passes overwhelmingly.”

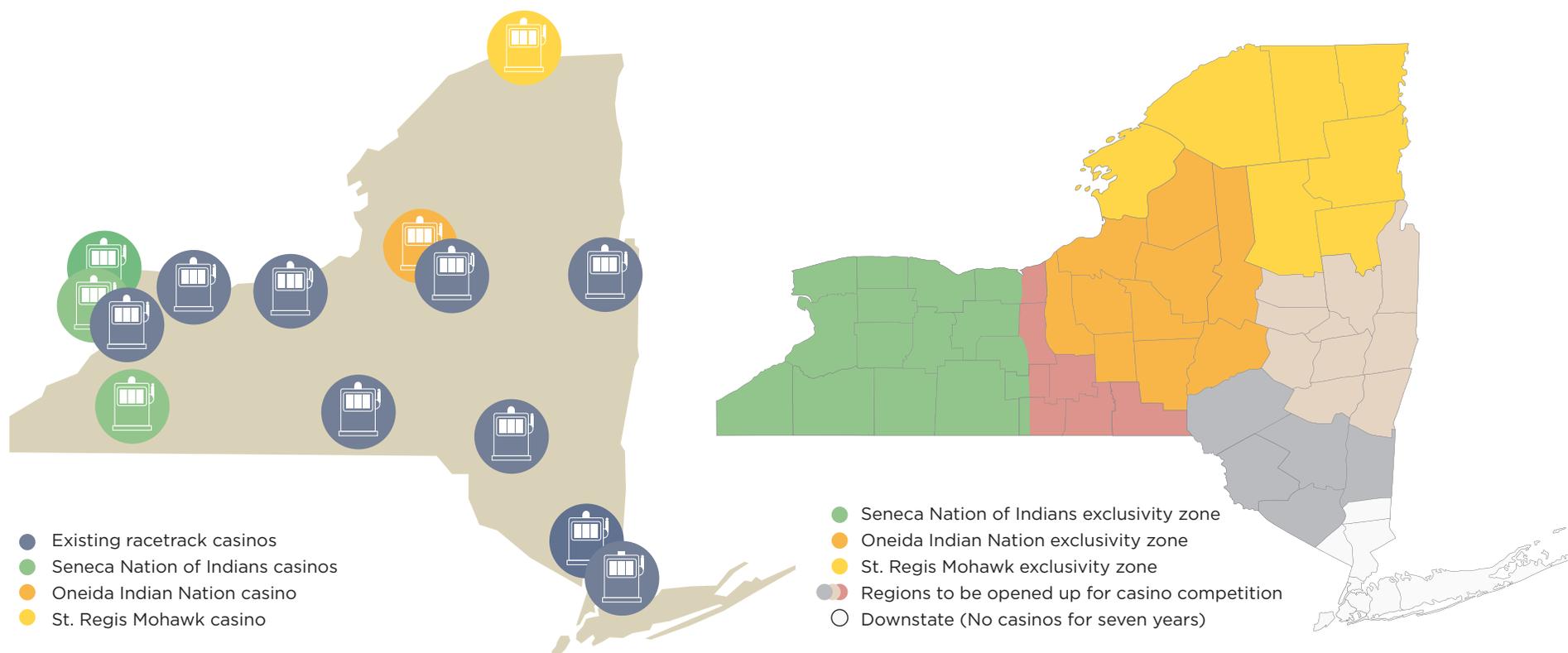
It wasn’t so long ago that casinos were few and far between. When Nevada legalized gambling in 1931 in a bid to boost tourism, it was the only state where the activity was allowed. States began establishing lotteries in the 1960s, with New York only the second state to have one, in 1967. Three years later the state established off-track betting for horse racing to boost revenue for local governments. New Jersey followed in Nevada’s footsteps by legalizing casino gambling in Atlantic City in 1978. Then, in 1988, Congress passed the federal Indian Casino Gaming Regulatory Act, which let Native American groups operate casinos on tribal lands. In 1993 the Oneidas opened Turning Stone, New York’s first full-scale casino. Next door in Connecticut, Indian tribes opened the massive Foxwoods and Mohegan Sun casinos in the 1990s.

As a growing number of Native American casinos opened across the country over the past two and a half decades, one state after another legalized non-Indian commercial casinos. The 1997 bid for a constitutional amendment failed in New York, but after the terrorist attacks of September 11, 2001, lawmakers paved the way for limited casinos at horse racetracks around the state.

Thirty-seven states now allow full-scale casinos of some kind. The percentage of adults who gambled at least once at a casino in the past 12 months has risen from 17 percent in 1990 to 32 percent last year. Full casino gambling was approved in Pennsylvania in 2010, in Massachusetts in 2011 and in Maryland in 2012.

CASINO COUNTRY

New York already has 14 casinos: nine slots-only racetrack casinos and five Native American casinos. In anticipation of future expansion, Gov. Andrew Cuomo has carved the state up into seven regions. With downstate New York off the map for now and three zones reserved for Native American tribes, three upstate zones remain in play, with up to four full-fledged casinos on the table.



In his 2012 State of the State address, Cuomo said that New York is “in a state of denial.”

“It’s time we confronted reality,” said Cuomo, minutes after unveiling his proposal to build a massive convention center in Queens. “It is not a question of whether or not we should have gaming in the state. We have gaming in the state of New York. We have tribal casinos all across the state. We have racinos all across the state. We don’t realize it, we don’t regulate it, we don’t capitalize on it, but we have gaming.”

That altered landscape may make it easier to get voters to support even more expansion, said David Schwartz, the director of the University of Nevada, Las Vegas Center for Gaming Research.

“In 1976 when people in New Jersey voted, it was kind of like they were basically letting the genie out of the bottle and saying, ‘Wow, let’s try casinos someplace that’s not Nevada,’ ” he said. “Since then it’s been easier for them. If you’ve already got people gambling a lot in New Jersey and Connecticut, it’s difficult to see the public policy argument for saying why New Yorkers couldn’t just gamble in New York if they’re already gambling. That’s not to say there’s not an argument, but it’s a little more difficult to articulate.”

Switching gears, he surprised the crowd at his 2013 State of the State with a plan to initially limit casino expansion to upstate New York, pitching his idea as an economic development proposal. Downstate areas in and around New York City would have to wait years to bid on a license.

In a matter of weeks in May and June, Cuomo announced deals with three Native American tribes to renew their gambling revenue-sharing agreements. In exchange for their cooperation, the state agreed to respect the Seneca Nation’s exclusivity zone in Western New York, the Oneidas were granted exclusivity in Central New York and the Saint Regis Mohawk Tribe won exclusive rights in northern New York. The Senecas, who had withheld millions of dollars in payments to the state amid a dispute over the status of its exclusivity agreement, posed a particular threat, since it could have launched a well-funded campaign to kill the amendment.

“I’m absolutely shocked that they were able to accomplish that,” said Jeff Gural, the owner of the Tioga Downs racino, which could compete for one of the three upstate casino licenses if the amendment passes. “I think people don’t give them enough credit. Had they not done that, if the Indians were opposing it, they would have probably spent millions of dollars opposing it.”

By tinkering with the tax rates for any new casinos, Cuomo was able to get the racino owners on board. The state’s legislative leaders and majorities in both houses had signed on months before, perhaps swayed by the \$3.2 million the gambling

industry had given in campaign contributions over the past two years.

While some observers feared that the major casino companies would funnel money into the state to kill the amendment, the threat has not materialized. Some of them undoubtedly expect to compete for a license in or near New York City whenever that becomes an option. Connecticut’s Foxwoods and Genting, which operates the Resorts World New York City racino in Queens, are looking to partner on potential casinos in the Catskills. Others, like Mohegan Sun and several Atlantic City companies, are already struggling with increased cross-the-border competition and declining profits and may have little free cash to launch a campaign in New York. A New York lobbyist for Caesars Entertainment, which has four Atlantic City properties, declined to comment on the company’s view on the amendment in New York, but said that he didn’t know of anybody opposing it.

In a replay of 1997, Las Vegas-based Wynn Resorts has kept an eye on developments in New York while allowing the process to run its course. “Wynn has not taken strong positions about the expansion of gaming in jurisdictions,” said Michael Weaver, the company’s senior vice president of marketing, “but rather we wait until citizens or elected officials have reached their decision, and then, at the appropriate time, present our credentials.”

Another Las Vegas company, MGM Resorts International, is also staying out of the referendum, although the company

supports the governor’s proposal, according to spokesman Alan Feldman. “We remain interested in the New York market and look forward to working with the governor and Legislature in future expansion efforts,” Feldman said.

A representative for Las Vegas Sands, which has casinos in Las Vegas, China, Macao and Singapore, declined to comment on the process in New York. “But I will say that our company has a unique convention-based business model that is best suited for large population centers with access to major transportation infrastructure like airports and subway systems,” said the spokesman, Ron Reese. “Our multi-billion developments in the U.S. and Asia have proven to be tourism- and even economy-changing projects, and that is where our focus lies. We are not really interested in pursuing smaller scale projects.”

Assemblyman Gary Pretlow, who chairs the Assembly Racing and Wagering Committee, said he had seen no evidence of any well-funded opposition groups.

“I haven’t seen any spending yet, but it’s still early,” said Pretlow, who predicted that the referendum would garner enough support. “In the last two weeks we’ll probably see a push yay or nay. After the advertising campaigns—and there will be two advertising campaigns, one pro and one con, I can almost guarantee you that—it hasn’t happened yet but it will—they will lean toward passage.”

But Schwartz, the executive director of UNLV’s Center for Gaming Research, said the fears of a campaign to kill New York’s

Six months after Cuomo announced a proposal to build a new convention center in Queens, the deal fell apart. But in 2013 Cuomo was back in control.

amendment are overblown. He said that in Maryland, Penn National made an unsuccessful effort to block casino expansion to protect its properties from competition, but that the example was more the exception than the rule. He said a shift in strategy likely occurred in 1998, when Las Vegas lobbied heavily to prevent tribal casinos in California, but failed. When tribes began to develop properties in California, Vegas interests found that there were management contracts and other possibilities to be had as a result of the new casinos, he said.

"It's a very outdated idea of how the business works," Schwartz said. "To me, the idea that you have a bunch of people smoking cigars in New Jersey or Connecticut, plotting to come over the border to New York—to my mind that's not how the industry works these days. They're usually very interested in expansion opportunities. About 40 percent of the gaming casinos [in Atlantic City] were opened by Caesars Entertainment, which I believe would be looking for expansion opportunities in New York, so I don't find that that argument holds a lot of water in many cases."

Since Cuomo announced his casino proposal early in 2012, the amendment has generally enjoyed a slight advantage in public polls. Support has hovered around 50 percent, with the opposition lagging somewhat behind. However, a Siena College poll late last month found that more voters were likely to support the measure when they read the actual ballot language, which says that it will create jobs, send aid to schools and help lower property taxes.

The ballot language, which was altered with the input of the governor's office, drew criticism from good-government groups and editorial boards. Eric Snyder, a Brooklyn attorney, filed a lawsuit claiming that the wording was too rosy. Casino supporters held their breaths until a judge last week threw it out.

"The way they did it, how they put the language in, is obscene," said Grey, the longtime gambling opponent. "Would they have allowed me to write the negative side of this and then let it be put in? Of course not! If you poll people straight up and down, do you want to have a casino, it's even. You've got to dress this thing up. This is a pig you've got to put lipstick on."

Grey said that the struggles of cities like Atlantic City and Detroit, which has three casino resorts, should be warning enough about the risks of pursuing them as an economic development tool. By contrast, cities like Providence, San Antonio and Wichita all rejected casino proposals, and today they are thriving, he said.

"What's different here is the political leadership has sunk to where we're going to mug our own citizens under the basis that they're getting mugged in Atlantic

City," Grey said. "Let's keep the money here"—if that's the best argument that you can make for a product, then you're really bankrupt in terms of your leadership abilities."

Earlier this month Heather Briccetti, the president and CEO of the Business Council, announced the formation of New York State Jobs Now, a pro-casino coalition that is raising money to support the amendment. The group expects to spend "a couple million dollars," she said. Briccetti argued that the economic development benefits that casinos could bring make it a "no-brainer," although she is unsure whether voters will support the referendum.

"I really don't know, and that's why we're involved in advocacy for the passage," she said. "I don't know how much polls factor in the limited number of people who vote on ballot propositions, and that obviously is something that has to be taken into account."

The wild card is New York City, whose voters will have the largest impact on the referendum because of the city's large population and the fact that New Yorkers will be voting for a new mayor. In the most recent Siena College poll, more upstate and suburban voters were in favor of the amendment than New York City voters. But James Featherstonhaugh, the president of the New York Gaming Association, said that he had conducted private polling that was roughly similar to the Siena poll but generally with more support across the board—and with greater support in New York City than in other parts of the state.

"That actually was contrary to the private polling we've done," said Featherstonhaugh, who is also a part owner of the Saratoga Casino and Raceway, another likely competitor for an upstate license. "Most of our private polling showed it was actually just a little bit more popular in New York City."

Whatever the case, several casino insiders said that Cuomo's decision to hold off on allowing any casinos in downstate New York was a brilliant strategic move, since it diminishes opposition in the five boroughs.

"The thing with casinos is, there's a lot of stakeholders that are fine with casinos, but they don't want it in their backyard," said one New York casino lobbyist. "It's fine for people to gamble elsewhere, they just don't want it here. And I think by structuring it the way he did, he struck the best balance. There are Saratoga, the Catskills, the Southern Tier, there are venues that would die to get casinos. Other people don't want them. This way he created, I think, is the best possible dynamic politically to achieve the successful passage of the amendment. He played it very, very skillfully."

State Sen. John Bonacic, who chairs the Senate Racing, Gaming and Wagering Committee, said that research that his

office has done over the past two years found that residents in four of the five boroughs of New York City do not want a casino. Only in Queens, which already has a racino, is there strong support for a full-scale casino.

"In those boroughs ... they did not want casinos located there, and the governor's plan—he just took it off the table," Bonacic said. "So he took a lot of the negativity off the table, saying, 'I'm not even going to look at these areas for seven years.' So I think that was pretty intelligent what he did."

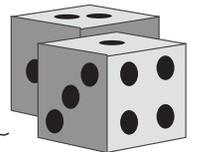
Bonacic, a longtime proponent of bringing casinos to the Catskills, argued that what would bring the casino amendment across the finish line would be the money dedicated to education and property tax relief, funds that will be shared statewide, not just where a casino is sited.

"We're still in this recession malaise. Everybody talks about things getting better, and they are, in a slow way, but I don't think it's hit Main Street yet. It might be hitting Wall Street; the corporations may be better, but Main Street, they're not feeling that the recession is over," he said. "So far it looks like it's been very successful and well planned, but you never know about these things. You never know about turnout. We've seen the polls, and the polls are encouraging, but a lot has to do with the turnout and how people vote in the

metropolitan area. New York City is going to be the key."

Grey, the veteran of New York's 1997 casino battle who is now an adviser to the Stop Predatory Gambling Foundation, is closely watching the developments leading up to this year's vote in New York. While the opposition doesn't have a big spender like Donald Trump on its side, Grey argued that it's better that way, since any gambling money would immediately open opponents up to attack.

"It's our people against their money and political muscle," Grey said. "What's good is that Donald Trump isn't involved in this, because this is going to be a test of whether people walk into the ballot box and are going to be like sheep ready to be fleeced by politicians and casino promoters. I'd like to think that at least the effort that's being put on by the citizens—and it's not self-interest, it's not easy to take all the political muscle and the promoters' money—but at least the citizens will have a chance to walk in and say yes or no."



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