

# Poarch Band official open to preserving dogtrack bingo

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A Poarch Band of Creek Indians tribal official Thursday suggested the tribe could consider a compact with the state that would allow existing dog tracks to keep electronic bingo.

Robert McGhee, the vice-chairman of the Poarch Band's tribal council, said after testimony to the Alabama Advisory Council on Gambling that the Poarch Band, who operate casinos in Atmore, Montgomery, and Wetumpka, was open to a compact that would allow them to have exclusive rights to traditional casino-type gambling while allowing facilities like VictoryLand in Macon County and GreeneTrack in Greene County to maintain their electronic bingo.

"I think it's something that really needs to be discussed," McGhee said after the meeting. "We've worked with a couple of senators and said 'Do it strategically.'"

The approach could be the only political path for any type of gambling in Alabama for formal legal recognition. But, as another witness said Thursday, it could also require an amendment to the constitution to clarify state law on electronic bingo.

The task force aims for a comprehensive study of gambling in Alabama and plans recommendations to the Legislature by Jan. 31.

Alabama's Constitution forbids lotteries and gambling, though local constitutional amendments allow gambling in individual counties. The Poarch Band of Creek Indians are federally recognized and operate under federal regulations.

The state's ongoing budget woes, combined with legislators' unwillingness or inability to raise taxes or create new revenues, makes expanded gambling attractive to some legislators. The Poarch Band over the years has signaled a willingness to discuss a compact with the Legislature. But selling the proposal has proven difficult. Senate President Pro Tem Del Marsh, R-Anniston, floated a gambling proposal in 2015 that went nowhere.

An amendment that could have authorized a statewide vote on establishing a lottery nearly passed the Legislature during last summer's special session, but fell apart amid concerns from Senate Democrats that language in the proposal could give the Poarch Band a gambling

monopoly at the expense of existing dog tracks, major employers in the counties where they operate.

McGhee touted the benefits gambling had brought to tribal members, including funding for health care and educational scholarships. The tribe, like VictoryLand and GreeneTrack, offers electronic bingo, considered Class II gaming under federal law. No entity in Alabama legally offers slot machines or table games, considered Class III gaming. A tribal compact could open the door to that, but as McGhee noted, a compact would have to offer something for the tribe to win federal approval.

“You’ve had compacts dismissed and rejected because the negotiations were too extreme, or the tribe was giving up too much to get something in return,” he said.

The tribe estimates a compact on its current gambling could give the state \$50 million to \$75 million a year, though McGhee said it was unknown what a compact on casino-type games would bring in. The tribe does not have to enter into a compact with the state on electronic bingo. Federal law says the tribe has that by right.

Gambling in the state also must contend with Alabama Supreme Court decisions, which have defined the game as played on paper. Carrie McCollum, a former deputy legal adviser for Bentley and general counsel for the Alabama Credit Union Administration, said it was likely the state would need to approve a constitutional amendment to provide clear legal grounds for gambling or strike it out entirely.

“There’s only one place a constitutional amendment is not needed, and that is to take state land into trust as tribal land,” she said.

The Poarch Band has considered the possibility of a gambling facility in north Alabama and could take the site into trust to develop it. McGhee said Thursday no particular site had been selected.

The council also heard from Les Bernal, national director of Stop Predatory Gambling, an anti-gambling group. Bernal criticized all efforts to expand gambling and said the costs would outweigh whatever benefits accrued to the state.

“The gambling lobby feeds on Americans’ job insecurity,” he said. “Gambling interests come in and feed on that insecurity.”

The council plans to meet again in early December.