

Gaming regulators want to know the exact status of federal litigation around the Mashpee Wampanoag tribe's quest to secure land in trust before making a decision about moving ahead with the state's third casino license, though Gaming Commission members appeared in no rush Thursday to begin accepting applications for a southeastern Massachusetts casino.

The Gaming Commission agreed Thursday to have its executive director and legal team work up a comprehensive briefing on the ongoing legal wrangling over the decision to grant the tribe land in trust, which was granted by the Obama administration but overturned and thrown into doubt by the Trump administration.

The tribe planned to construct its \$1 billion First Light Resort and Casino on tribal land in Taunton, a project that would have a significant impact on the state's commercial casino industry.

"The commission's staff, our legal department, have been following the status of the federal legislation and litigation that relates particularly to the complicated tribal matter ... I think it's probably a good time to actually update us more formally through a memorandum. It's very complicated," Chairwoman Cathy Judd-Stein said Thursday. "I do think probably that needs to be formalized because it's an important part of the overall Region C evaluation and discussion."

Region C -- the commission's name for Bristol, Plymouth, Barnstable, Dukes and Nantucket counties -- has given the commission fits for years. In 2016, when it appeared a tribal casino in Taunton was likely, regulators rejected a proposal for a commercial casino in Brockton. A federal judge's ruling later that year nullified the Obama administration's decision to grant the Wampanoag a 320-acre reservation on which the tribe planned to construct a resort casino and President Donald Trump's administration last year officially reversed the Obama-era declaration.

Since then, the tribe's efforts to secure its land in trust status have been tied up in federal court. U.S. Rep. William Keating, who represents Taunton and Mashpee, has pushed legislation that would use the power of Congress to reaffirm the 2015 decision by the Interior Department to take land into trust for the tribe, though Trump has opposed it.

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On Thursday, Sen. Marc Pacheco spoke to the Gaming Commission and said he has been trying to get some clarity on where things stand with the tribe's legal battles and the Congressional efforts to address their concerns.

"I made a call before I came over to try to figure out what was happening at the federal level and my sources tell me we probably won't know too much until the end of the year," Pacheco said. "And while we may know something definitively by the end of the year, when Jan. 20th turns around of 2020 it is no longer definitive if there is a change in the White House because the Department of the Interior opinions ... may change significantly between now and then."

Pacheco, who lives in and represents the city where the Wampanoag tribe hopes to build its \$1 billion casino, said he supports the commission's plan to gather more information before making a decision one way or the other.

"I'm here to ask the commission to continue with your thoughtful deliberation about everything that is going on and to not make a decision, even though it may be in our best interest, because it's within your jurisdiction under existing law to go out for a commercial casino if the commission chooses to," he said. "If I know that there is absolutely no way that a Native American casino can come to be in Region C, I'd be one of the first people here to urge you to do so. But if that uncertainty still looms out there at any level, it will have a significant effect on those that even bid."

The concern, as expressed by Pacheco and others, is that commercial casino operators might not be willing to invest the minimum \$500 million in a project that would have to compete with a nearby tribal casino. If the Gaming Commission opts to go ahead with licensing a commercial casino in Region C and the tribe is allowed to open its own casino under federal law, Massachusetts would receive no tax revenue from the tribal casino.

In addition to getting up to speed on the litigation involving the tribe, the commission also agreed Thursday to have its staff draft a request for information that would solicit information on all sorts of relevant Region C matters, like the state of the gaming market, local support and more. The commission did not agree to issue that RFI, only that commissioners will provide feedback to a draft prepared by staff. With that information in hand, the commission said it would later consider holding a public input meeting somewhere in Region C.

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Though the commission took no formal vote related to Region C on Thursday, the decision to seek more information and comments from the commissioners suggested that the Gaming Commission is in no hurry to make a definitive ruling on the one remaining casino license.

“I am comfortable with the compilation of legislative status as well as looking at the drafting of an RFI and that’s about as far as I’m comfortable with right now,” Commissioner Eileen O’Brien said.

Commissioner Enrique Zuniga stressed that it will be crucial for the Gaming Commission to conduct its own economic analysis of the Region C market before making a decision, noting that the two resort casinos that have already opened are coming up short of their own revenue projections.

“I currently feel no sense of urgency ... if we have not seen the levels that the applicants themselves predicted, because they did predict certain revenues from year one and they’re not currently seeing those revenues,” Zuniga said. “I would rather, frankly, see how it goes, do more analysis and understand better how they’re competing in the market. It’s early, in my opinion.”

Read more <https://www.masslive.com/casinos/2019/10/massachusetts-gaming-commission-wants-briefing-on-mashpee-wampanoag-tribal-casino-status.html>