

Executive Summary: Current Overview of Sports Betting Legalization in California

This report details the context, current status, and future prospects of sports betting legalization in the state of California. In this report, legal decisions and the texts of each legalization effort are also summarized, with their key differences discussed. The purpose of this report is to provide an overview of the sports wagering legalization efforts in the state of California.

To determine the context of the situation, articles published by local news outlets and gaming news organizations were analyzed and the nature of the tension between tribes and lawmakers were extrapolated. The text of the bills proposed by Assemblyman Adam Gray (D-Merced) and Sen. Dodd in each house of the legislature, as well as that of the tribal initiative, were also examined to identify the key provisions in each.

The results of this report indicate that whether voters will adopt or reject sports wagering will depend on whether the state of California grants an extension to the deadline for tribes to gather signatures. If so, it is highly likely that tribes will be able to put their constitutional amendment to a vote, but if not then it is very unlikely that voters will decide on the whether to allow sports wagering in the state during the 2020 election cycle. Legislatively, it is impossible for lawmakers to reintroduce their version of sports betting to voters in the 2020 election cycle. If tribal sports wagering proponents are not granted an extension, it is highly likely that both legislators and tribal leaders will attempt to propose a constitutional amendment to voters again in the 2022 election cycle.

Current Overview of Sports Betting Legalization in California

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I. Introduction and Context

In 2018, the Supreme Court struck down the Professional and Amateur Sports Protection Act (PASPA), which prohibited states from enacting new legislation to permit sports betting.¹

California, one of many states aiming to legalize sports betting, had one bill in each house of the legislature and one ballot initiative competing to legalize sports betting, with each of the two major efforts seeking to serve a different interest.

Both tribes and legislators are seeking to legalize sports wagering through an amendment to the California state Constitution. An amendment may be ratified by a two-thirds vote from each house of the legislature or through a ballot initiative that gains the favor of a simple majority of voters.

In 2019, California Assemblyman Adam Gray (D-Merced) and State Senator Bill Dodd (D-Napa) introduced Assembly Constitutional Amendment 16 (ACA-16) and Senate Constitutional Amendment 6 (SCA-6) concurrently. The California Sports Wagering and Consumer Protection Act, which describes both SCA-6 and ACA-16, proposes an amendment to the state constitution allowing regulated and taxed sports wagering from authorized sportsbooks. The NFL, MLB, PGA Tour, and multiple sports teams within the state endorsed these efforts, specifically because they provide for statewide mobile betting. On June 22nd, 2020, however, SCA-6 was rescinded and its final committee hearings were cancelled.

Native American tribes in the state are currently in the signature collection stage of a competing ballot initiative to legalize sports betting, which would only authorize the activity at Native American casinos.

The legislators working to authorize sports betting seek to reduce crime and money laundering from illegal gambling while also generating a source of tax revenue for the state. Tribes claim that authorizing sports wagering, a form of gaming, for operators within the state violates 1999 tribal gaming compacts which grant exclusivity of gaming operations to tribes in the state. Similarly, in 2019, a group of tribes sued Governor Gavin Newsom for allegedly infringing on gaming exclusivity rights by allowing cardrooms to operate within the state, though the case was dismissed by the United States District Court.²

¹ *Murphy v. National Collegiate Athletic Assn.*, 584 U.S. (2018)

² *Yocha Dehe Wintun Nation v. Newsom*, No. 2:19-cv-00025-JAM-AC (E.D. Cal. Jun. 17, 2019)

II. ACA-16 Summary

ACA-16 is a part of the two-pronged legislative approach that Assemblyman Adam Gray and California State Senator Bill Dodd are employing in their legalization efforts, with SCA-6 in the state senate mirroring the provisions of this bill.

The Constitution already authorizes very limited forms of gaming for select purposes. ACA-16 seeks to change and amend Article IV, Section 19 with the only change being that the Legislature has the power to authorize and provide for the regulation of sports wagering.

III. ACA-16 Committee History

ACA-16 is currently under review by the following committees, as of July 1st, 2020:

- 1.) Government Organization
- 2.) Appropriations

If no new committee referrals are made, ACA-16 will be brought to the full assembly for a vote. It will need a $\frac{2}{3}$ majority to pass.

IV. Current Status of ACA-16

ACA-16 is currently in committee and will be raised to a full vote if it passes.

V. Future of ACA-16

If ACA-16 passes both houses of the legislature and is signed by the governor, it would be placed on the 2020 ballot for voters to decide. It will only need a simple majority of support from voters to become law. However, with SCA-6 (the more elaborative of the two bills) no longer in the senate, ACA-16 will likely fail.

VI. SCA-6 Summary

SCA-6 is the senate counterpart to ACA-16, though it includes more specific information on what would be allowed under the proposed changes. SCA-6 can be briefly described as making the following changes to California law:

- 1.) Sports betting operated by horse race tracks and tribes is authorized, subject to regulation

- 2.) Online and mobile sports betting is authorized
- 3.) The Governor is authorized to negotiate and conclude compacts with tribes for sports betting and banking and percentage games
- 4.) Games where player-dealers wager against other participants are authorized at California Gambling Control Commission (CGCC) licensed establishments, namely cardrooms
- 5.) A tax rate of 10% for on-site wagering (in brick and mortar casinos) profits and 15% for mobile wagering profits is proposed. 1% of all sports wagering revenue, up to \$10,000,000 annually in total from all casinos, will be used to fund problem gambling programs.

VII. SCA-6 Committee History

The committee and amendment history of SCA-6 is as follows:

- 1.) 6/27/2019: Introduced and referred to Rules committee
- 2.) 7/10/2019: Referred to Governmental Organization (G.O.), Elections and Constitutional Amendments (E. & C.A.)
- 3.) 5/28/2020: Referral to G.O., E. & C.A. rescinded due to shortened 2020 legislative calendar
- 4.) 5/28/2020: Author's amendments added to bill, re-referred to G.O.
- 5.) 6/3/2020: Adoption recommended by G.O.
- 6.) 6/3/2020: Referred to Committee on Appropriations (APPR.)
- 7.) 6/9/2020: Placed on APPR. Suspense File for fiscal impact analysis
- 8.) 6/17/2020: Scheduled June 18 APPR. hearing cancelled by author's request

VIII. Current Status of SCA-6

SCA-6 has been pulled from consideration by the author, Bill Dodd (D-Napa) due to pressure from tribes. Without its senate counterpart, ACA-16 is likely to fail as well.

IX. Future of SCA-6

SCA-6 is no longer under consideration for passage. It may be reintroduced in the future, but since authorizing sports betting requires an amendment to the state constitution, it can only be considered in election years. Therefore, 2022 would be the first chance for another legislative attempt at legalization.

X. Tribal Initiative Summary

Known as the “California Sports Wagering Regulation and Unlawful Gambling Enforcement Act,” the ballot initiative from tribal leaders seeks to amend the state Constitution to enable sports betting in specific circumstances. Under the petition from tribal leaders, the following changes would be made to the California constitution:

- 1.) Federally recognized Native American tribes can offer roulette, dice games, and sports wagering at horse-racing premises in Alameda, Los Angeles, Orange, and San Diego counties.
- 2.) A 10% tax would be imposed on sports wagering profits.
- 3.) A portion of revenues would be used for enforcement and problem-gambling programs.
- 4.) Sports wagering cannot be marketed to minors.
- 5.) Private lawsuits to enforce other gambling laws are authorized.

Arguably the most consequential portion the petition is that which authorizes private lawsuits for the enforcement of other gambling laws. This would give tribes the ability to sue the state of California for permitting cardrooms, which tribes view as an infringement on their compact-negotiated gaming exclusivity rights. Furthermore, since the tribal petition does not allow statewide mobile gambling at any point in the future, tax revenue gained would be significantly less than that of the proposed legislative solutions.

XI. Tribal Initiative History

To qualify a constitutional amendment for inclusion on a ballot, an initiative must gain the signatures of at least 8% of all qualified voters from the prior gubernatorial election. Once the signature requirements are met, the amendment must gain a simple majority of votes in the following election to be enacted. Petitions are allowed to circulate for 180 days from the date on which the Attorney General prepares the petition language, and all signatures must be certified 131 days before the date of the general election.

The petition language was released on January 21, 2020, giving tribes until July 20th, 2020 to collect all the necessary signatures. On February 26, the tribes had gained the necessary amount of signatures (25% of total) to require legislative hearings on the initiative.

In March, the Coalition to Authorize Regulated Sports Wagering, the group paying signature collectors, paused their collection efforts due to the COVID-19 pandemic. On June 9, the campaign sued the state of California to extend the deadline for signature collection until either all California counties have moved into their third phase of reopening or for at least another 90 days. If granted a 90 day extension, the tribes would have until October 18 to submit their signatures for verification. The general election is on November 3rd, 2020.

XII. Tribal Initiative Status

As of July 1st, the verdict on a possible extension for signature collection has not yet been released.

XIII. Tribal Initiative Future

The likelihood of enactment for this initiative depends on whether an extension is granted for signature collection. If so, the politically influential tribes will likely be able to collect the required signatures to place the question on the ballot. If an extension is not granted, the ballot initiative will almost certainly fail to gain the required signatures.

If the ballot initiative does fail, the proponents can begin collecting signatures again in the 2022 election cycle, though they will have to collect all signatures anew.

Resources

Texts and Decisions

[Bill Text - ACA-16](#)

[Bill Text - SCA-6](#)

[Initiative Text: California Sports Wagering Regulation and Unlawful Gambling Enforcement Act](#)

[Yocha Dehe Wintun Nation v. Newsom](#)

[Murphy v. National College Athletic Assn.](#)

[Order to Dismiss California Tribes' Lawsuit for Breach of the Tribal-State Compacts Against the State and Governor Newsom](#)

Articles

[California Could Become America's Sports Betting Capital as Rival Groups Eye November Ballot](#)

[CA Tribes not Giving up on Their Version of Sports Betting](#)

[California Sports Bet Bill Looks to Stay Alive](#)

[Two Sports Betting Initiatives Prepare For Assembly and Senate Battles in 2020](#)

[California Gaming Association Statement in Response to the United States District Court's](#)

[Legal sports betting in California? Not yet — casino tribes crush plan backed by NFL, NBA](#)

[Now or Later, Tribes Not Done with California Sports Betting Initiative](#)

[California Legalize Sports Betting on American Indian Lands Initiative \(2022\)](#)

[Tribes Well on Way to Putting California Sports Betting Initiative on Ballot](#)

Endorsement Letters

[NFL Endorsement Letter](#)

[Coalition of Leagues Endorsement Letter](#)

[Joint Statements of Sports Leagues to Canadian Lawmakers in Favor of Sports Betting](#)