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Harrington predicts a dire future

Racino says a tax hike would decimate venue, yet records show steady profits

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Worlds collide these days at the Delaware State Fairgrounds, the spiritual center of Delaware's hardscrabble farming traditions and a rural annex for the state's tight-knit and lately embattled casino industry.

The fair's 300 table-flat acres south of Harrington serve as the state's agricultural capital for a few weeks in the summer, while also hosting a year-round ice rink, equestrian center and Harrington Raceway harness track.

In the middle of it all: a decidedly urban slots and simulcast operation long viewed as a cash cow for the fair and the casino's racetrack owners. Harrington's gambling operations have provided millions over the years for fairground improvements, while financing a glitzy, \$35 million expansion of the gaming center.

More recently, though, Harrington has shed the cash-cow mantle and trotted itself out as an endangered species.

Asked by Gov. Jack Markell to pay more for the privilege of doing business in Delaware, casino industry officials have pointed to Harrington as the operation most threatened -- even though the casino was secure enough in 2007 to guarantee sizable annual revenue increases for its private management company through 2011.

While the recession has battered casinos and racinos nationwide, public records paint a picture of Harrington Raceway & Casino Inc. as a steady profit center. Harrington's gambling operations have boosted the nonprofit state fair's asset value dramatically, under the guidance of boards that include three state lawmakers and a long list of prominent and politically connected figures.

The nonprofit state fair owns 76 percent of Harrington Raceway and its casino, a relationship that shields the casino's private business deals, contracts, and stock owners under rules designed to support local farmers and agriculture.

While few public records of the casino's finances are available, the fair's most recent nonprofit tax disclosure statement shows that Harrington Raceway's track and casino assets have grown from \$55 million in 2004 to \$105.4 million in 2007.

Harrington Raceway's total income grew from about \$17 million in 2004 to more than \$21.2 million in 2006, then settled back to \$17.1 million in 2007, according to the fair's annual non-profit tax disclosures to the Internal Revenue Service.

Since at least 2004, the fair also has reported exactly \$3,020,898 each year in dividends and interests from securities, although specific sources of funds and income attributable to ownership of the raceway was not itemized.

Other non-casino fair investments have grown from \$2 million in 2004 to more than \$5.7 million at the end of 2007.

Sen. Gary Simpson, R-Milford, a fair board member and raceway shareholder who managed the fair between 1985 and 1992, said central and southern Delaware residents have enjoyed a steady return from the casino.

"The state fair has put the money back into the facility itself, for the benefit of Delawareans," said Simpson, who plans to continue a practice of abstaining from any vote on the raceway or casino. "They put in a \$4 million to \$5 million ice rink for the kids of southern Delaware -- I don't think there's any way that's ever going to make money."

"It's upgraded the facilities to probably the best state fairground in the country today. It's given Delaware access to top-name talent, and the economic activity -- it seems like every weekend, some group is using it for a car show or antique art or a horse show or something."

Just two years ago, Harrington announced a \$35 million upgrade for the casino, nearly doubling the size of the operation to 130,000 square feet and pushing its slot-machine total to 2,000.

Intense negotiations

Rep. Gregory Lavelle, R-Sharples, who broke with his caucus to support Markell's tax hike when it was first introduced, said casinos had received "a tremendous opportunity" from Delaware's grant of exclusive licenses over the past two decades.

"To me, it's not an industry that needs to be a monopoly," Lavelle said. "You could argue whether utilities need to be monopolies. I think it's been demonstrated that one of the reasons you don't lightly set up monopolies is just for this reason."

Dover Downs and Delaware Park, the state's other two racetrack casinos, are larger, wealthier and more diversified than Harrington, but have fought just as hard to convince the governor and lawmakers not to cut into their bottom lines. Under state law, Dover Downs, Delaware Park and Harrington are the only places where gamblers can play lottery slots.

That wouldn't change under Markell's plan, now headed to the Senate. All three also would be the exclusive venues for table games and sports betting -- all instate competition outlawed.

Dover operates a "diversified gaming and entertainment" complex in the capital that includes a casino, 500-room luxury hotel with restaurant and entertainment facilities and a harness-racing track that does double duty as a NASCAR raceway two weekends per year. It reported more than \$59 million in revenues for the first quarter of this year.

While fighting Markell's tax hike in Delaware, Dover Downs' parent company is pitching a \$500 million casino in Atlanta.

Delaware Park, a privately owned racetrack casino with 3,000 machines, does not publicly disclose its finances, but reported \$274 million in slots revenues in 2007. It also operates several restaurants, a country club and a golf course.

Some lawmakers cited serious concerns about Harrington's financial health before a vote Friday that scaled back Markell's proposal to claim a larger share of racino revenues for taxpayers. Approval came after days of intense negotiations that at times cast Harrington in the role of a business on the brink of ruin.

The deal, which now goes to the Senate, would increase state casino revenues by more than 17

percent -- down from the nearly 22 percent increase Markell originally wanted. It also let Harrington keep an extra percentage of revenues if gambling receipts fall below \$107.5 million per year.

"If you look at the 2008 financial statement of Harrington Raceway, our net operating profit is \$7.9 million. It's all over Legislative Hall," said Eugene Bayard, raceway president. "If you apply what the governor originally proposed and if we had the same revenues in 2009, which I don't anticipate because of the recession, we'd have a \$4 million operating loss."

Joe Rogalsky, Gov. Markell's spokesman, disputed Bayard's dire forecast. Rogalsky echoed earlier administration assertions that "the vast majority of businesses in Delaware would kill to have all the racinos' profit margins, including Harrington's."

"If the casinos cannot make a profit with a monopoly under the new numbers, then they're in the wrong business. There are plenty of people who want to get into that business," Rogalsky said.

Some lawmakers said specifics about the raceway's profits, partially detailed in various IRS and Security and Exchange Commission documents compiled by The News Journal, never came to light before Markell's plan was amended and sent to the Senate. Nor was the profit guarantee Harrington recently negotiated for its manager discussed with some key decision makers in Delaware.

"I was never comfortable through the whole process that I had every penny in place," said Rep. John Kowalko, D-Newark South, who supported Markell's plan and voted for the compromise. "I hate to use the phrase 'We have to move on,' but eventually we had to, because it sort of locked out the discussions for moving forward" with the rest of the state's budget.

A compromise

After days of intense casino industry lobbying and frayed tempers, the House produced a compromise on Friday. The measure now bound for the Senate, House Substitute 1 for HB 100, would give the state 43.5 percent of lottery proceeds, up from the current 37 percent, but down from the 45 percent sought by Markell.

Negotiations were shadowed by debate over proposals to grant licenses for new casinos in Sussex County and Wilmington, by Markell's proposal to allow sports betting and by calls to add table games to casino offerings.

Administration and track officials provided sketchy estimates of the consequences. Details about racino operations filed with the state Lottery Office are exempt from Freedom of Information Act disclosure rules.

Other records suggest that Harrington had plenty of confidence in its gambling franchise.

SEC reports show that Harrington guaranteed its casino manager five years' worth of healthy profit increases under an agreement signed in 2007.

The raceway and management company, Las Vegas-based Full House Resorts, originally split casino net income evenly under a contract that expires in 2011. Harrington is expected to take over management at that time -- claiming all of the millions in annual fees now paid to Full House.

In January, Full House told investors its half-share of the Harrington deal was worth \$4.5 million in 2008. Harrington's board guaranteed Full House fee payments that will only grow.

Full House said in its third-quarter financial report that it agreed to give Harrington "greater flexibility" in managing the casino in exchange for "guaranteed growth in its share of [the casino's] net income for the remaining term of the management contract."

For the first nine months of 2008 alone, that deal gave Full House an extra \$681,742 over what it would have received otherwise, the company reported. The extra money rolled in even though Full House already has handed the casino's management over to Harrington under a "step aside" agreement, and even though the economy and casino revenues have slipped.

"If we had a crystal ball, it might have been done differently," Bayard said. "It might not have been done now, but it was a business decision. It has no impact on what's in front of the General Assembly."

House Minority Leader Richard Cathcart, R-Middletown, said he was unaware of the changes at Harrington or the profit guarantee for Full House. But he said some lawmakers were concerned about Harrington's dire forecasts, and many are sensitive to the raceway's special status.

"From a political standpoint, there are probably more people, political people, involved in the Harrington Raceway and fairgrounds and have an interest in the casino operations there," Cathcart said. "There are legislators on the boards. It makes that piece of it a little more political than Delaware Park or Dover Downs."

Senate President Pro Tem Thurman G. Adams Jr., D-Bridgeville, and Simpson are unpaid directors and members of the Delaware State Fair's executive committee and holders of nondividend-paying fair stock. Rep. David Wilson, R-Bridgeville, who initially voted against Markell's proposal, also is a board member of the fair. The fair also has several thousand shareholders whose only compensation is a free pass to the fair and a "chicken dinner," Simpson said.

But tucked into that equation is dividend-paying Harrington Raceway stock, which Adams and Simpson also own. The Fair Board controls 22,800 shares of that outstanding stock. The other 7,200 shares of Raceway stock pays dividends at \$33 per share, per quarter. Simpson's ethics disclosure form on file with the Public Integrity Commission doesn't indicate how much Raceway stock he owns.

Nearly \$1 million in Raceway dividends are paid out every year to undisclosed recipients.

Rep. Pamela J. Thornburg, R-Dover West, is listed as a member of the raceway's board of directors, a position that Adams also holds on an honorary basis.

Other fair board members include William J. DiMondi; former Delaware Republican Gov. Pierre du Pont; Bayard, a prominent Sussex County attorney; longtime Sussex County Democratic leader and current election commissioner Kenneth L. McDowell; and former State Police Superintendent L. Aaron Chaffinch.

Adams is expected to abstain from voting when the bill hits the Senate floor, but as pro tem, he has the power to decide when the bill is heard and which committee will consider the legislation.

Simpson said he will not vote on the bill. But he said that won't stop him from being involved in negotiations or speaking on the Senate floor during debate.

'The wrong time' to hike taxes

Political ties, economic development worries and budget jitters all were at work Tuesday when Markell's original tax proposal went down to defeat two votes short of a needed two-thirds majority. The decision was mostly cast along party lines, with the majority of Democrats supporting the measure and most Republicans opposing it.

As proposed, the new tax rate would push Delaware closer to the top rate for casino taxes nationwide, far ahead of New Jersey rates, and closing in on the 55 percent set by Pennsylvania and 67 percent by Maryland.

Bayard, however, said Maryland's tax rate and other government demands had smothered casino development in that state.

"Maryland is a red herring," Bayard said. "Nobody is running to break ground in Maryland because the state's share of the take is so extreme and the costs of getting started are so significant that there's no enthusiasm to start slots in Maryland."

Joe Weinert, an analyst with New Jersey-based Spectrum Gaming Group, said few states are pushing for more from casinos today.

"This is the wrong time to be raising casino taxes. It's rather short-sighted in that, when taxes go up, the marketing dollars go down," Weinert said, "and properties tend to do things to save money, such as closing restaurants."

"In my opinion, Delaware doesn't need more casinos. The state would be better served by allowing the existing operators to become better and allowing them to offer table games and sports betting."

Lavelle said casinos were benefiting greatly from their state-protected, exclusive gambling rights, and had become "de facto wards of the state."

"When Hooters was going to set up a restaurant on Kirkwood Highway, did the owners of McDonald's and other restaurants get to come to the General Assembly and say 'Hey, you can only sell so many hamburgers?'" Lavelle said. "It's great if you can get it."

Additional Facts

GAMBLING RATES

Racetrack State casinos tax rate

Delaware 37 percent (proposed 43.5 percent)

Florida 50 percent (35 percent under consideration)

Iowa 24 percent

Maine 47.8 percent

Maryland 67 percent

New Jersey 8 percent plus other fees

New York 70.3 percent

Pennsylvania 55 percent

Rhode Island 72.6 percent

West Virginia 57.8 percent