

States outsourcing regulation of casinos to private firms

By Hannah Dreier, AP

When Springfield, Mass., needed to choose who would build its first casino, the city hired an outside adviser to help with the process.

The consulting firm Shefsky & Froelich recommended the deal go to MGM Resorts International. At the same time, the consulting firm also was working as a registered lobbyist in Illinois for MGM Resorts.

The arrangement highlights an often-overlooked trend as more cities and states embrace legalized gambling around the country: Private companies are being hired to write regulations and vet casinos, even as the same firms work the other side of the fence, helping casinos enter new markets and sometimes lobbying for their interests.

States hoping to make money quickly from legalizing gambling have few options as speedy as outside contractors, which allow them to get casinos up and running without having to hire and train a cadre of staff regulators.

But letting consulting companies with deep ties to the gambling industry decide how casinos are run – and who runs them – is a significant departure from how more established gambling states, including Nevada and New Jersey, go about their business.

Regulators in states that maintain control over their own rules say the move toward privatization is unnerving.

“How do you vet your consultants? If a lot of these consultants at one time or another have worked for the people

that you're in charge of regulating, at some point, you're going to have issues with the purity of the investigation," said Illinois Gaming Board spokesman Gene O'Shea.

At least 16 states now rely on private companies for major portions of casino oversight, according to interviews with regulators around the country.

The companies advise states about whether to legalize casino gambling, and then draft gambling rules, set up oversight commissions and institute regulations, deciding which casinos and executives are suitable for licensing. The companies sometimes hire lobbyists to get to know lawmakers before gambling is even legalized.

One of the largest of this new breed of consulting companies is Spectrum Gaming, which started in 1996 in a New Jersey basement and has twice been named among the fastest-growing private companies in the United States by *Inc.* magazine.

Spectrum got the call in summer 2007 when West Virginia was writing regulations for table games and in 2010 when the New Hampshire Legislature was considering legalizing gambling. It recently completed a study for Florida, which is considering expanding legalized gambling, and continues to vet casino workers for Ohio and Massachusetts.

At the same time, Spectrum has worked with casino companies including Caesars Entertainment, Las Vegas Sands, Wynn Resorts and Pinnacle Entertainment, and many Indian-run gambling operations.

Managing director Michael Pollock said his company would never work for competing interests simultaneously.

"You cannot be in this business if you're willing to entertain conflicts of interest or even an appearance of a conflict," he said.

State officials tend to rely on consultants to self-police, and ethics codes address only simultaneous conflicts. So while Massachusetts wouldn't want Spectrum working for Wynn while also vetting the company for a license, the state doesn't mind that Spectrum worked for Wynn in 2011.

This kind of coziness is common. For example, Ohio hired Spectrum and the consultant Moelis & Co. in 2009 to help establish gambling regulations and determine which casinos would be licensed. The companies turned in reports on the state's two casino operators, Penn National and Rock Ohio Caesars, even though Spectrum has worked for Caesars in the past, and Moelis & Co. has worked for Penn National Gaming.

MGM CEO Jim Murren says these issues come down to the clubby nature of the mainstream gambling world.

"This is not a huge industry, and gaming law is highly specialized," he said. "There are only maybe four or five firms that are experts in gaming law, and we know them all, and we've probably used them all."

But MGM has also been on the other side of the issue.

The company complained when it emerged in 2008 that New Jersey regulators had been freelancing for Spectrum. MGM denounced the arrangement after New Jersey regulators issued a blistering report questioning the suitability of MGM's new business partner in China.

Five years earlier, Spectrum had written a study raising questions about the partnership for MGM competitor Las Vegas Sands. The study was circulated anonymously, apparently to damage MGM.

Pollock says Spectrum would never take on a client who expected a predetermined result, whether it was Las Vegas Sands or a struggling state government.

“We make it clear from the outset that we are not necessarily going to tell you what you want to hear, we’re going to tell you what you need to know. And we will not entertain an engagement in which a client seeks a particular outcome,” he said.

Casino opponents are skeptical. John Sowinski, spokesman for the Florida nonprofit No Casinos, says that Spectrum often paints an overly rosy picture of the boon casinos might provide, overshooting tax revenue estimates in studies conducted for Ohio, and calling New Jersey’s Revel project “just the tonic that Atlantic City needs.” (The state-subsidized casino filed for bankruptcy 10 months after opening.)

Sowinski believes states in need of consultants should hire experts and firms with no connection to the casino industry

“The gambling industry is the one industry that seems to get away with this conflict of interest carte blanche,” he said.