



PROPOSITION 27 – In Depth Supplement

Allows Online and Mobile Sports Wagering Outside Tribal Lands

Introduction

This is one of two propositions that deal with gambling in California. Prop 27 addresses sports betting online and by mobile device in the state. A petition to place this on the ballot was circulated for signatures. The committee that circulated the petition received funding from sports betting corporations.

Background and Situation

The California Constitution generally prohibits gambling. Over the years, the Constitution was amended to allow certain forms of gambling in certain locations. Betting on sports is not legal in the state.

American Indian tribes have a specific status under federal law. They are sovereign nations. The federal government has jurisdiction over commerce with foreign nations, among states, and with American Indian tribes. So any state regulation of tribal activity is limited to what is allowed by federal law and agreements, called compacts, between the state and tribe as approved by the federal government. The federal Indian Gaming Regulatory Act declares that Congress seeks to advance tribal economic development, tribal self-sufficiency, and strong tribal governments by allowing gaming. The compacts determine such things as what payments are to be made by Indian tribal casinos to state and local governments. Last year tribes paid the state \$65 million for state regulatory and gambling addiction program costs.

Gambling is regulated by the compacts, and by state and federal law. The California Gambling Control Commission is the state regulatory body. It is responsible for setting policy, establishing regulations and acting as the administrator of gaming revenues deposited into the Indian Gaming Special Distribution Fund (SDF) and the trustee over the revenues deposited into the Indian Gaming Revenue Sharing Trust Fund (RSTF), and administering the provisions of the Gambling Control Act and the Tribal-State Gaming Compacts. The California Department of Justice, district attorneys and city attorneys enforce criminal laws related to gambling.



Revenue generated from tribal casinos goes to the General Fund and to the funds mentioned above. One is a revenue sharing fund that sends money to tribes that do not operate casinos or who have casinos that have fewer than 350 slot machines. Another trust fund is used to cover regulatory costs of the state, payments to local governments, and to gambling addiction programs.

A 2018 US Supreme Court decision struck down the federal law that banned sports betting in all states but Nevada. Since then approximately 35 states have legalized such betting in one form or another. Not all states have operational betting at this time. Oregon has had onsite and online sports betting since 2019 with one company running the online sports betting. Arizona started in 2021 with 3 vendors.

The lack of legal sports betting does not mean that Californians do not engage in it. An unpublished study from 2019 cited by estimates that Californians were making billions of dollars in sports bets either through bookies or offshore companies. The law does not prohibit “fantasy” teams because there is no betting on the outcomes of actual sports events

The Proposal

Prop 27 would amend the California Constitution to allow online betting on sports events by adults that are 21 or older. It would amend some state laws and create new state laws to implement and regulate online sports betting. The operators of online sports are to make payments to the state to pay for regulatory costs and to support programs designed to address homelessness and the mental health and housing issues that people who are homeless have. A new regulatory agency is to be created within the California Department of Justice. Prop 27 also contains provisions to reduce illegal online sports betting.

Rules on what entities may operate online sports betting and the statutory structure governing the operations

Prop 27 would allow two groups to obtain licenses to run online sports betting:



- 1) American Indian tribes that offer online sports betting under the tribe's name which must pay a onetime \$10 million initial licensing fee and \$1 million renewal fee every 5 years, and
- 2) gambling companies that offer the betting under the company name. For the latter, a company must have a marketing agreement with a tribe that has a tribal-state compact for gaming and must pay a onetime \$100 million initial licensing fee and a \$10 million renewal fee every 5 years. Only companies that operate in at least ten states can obtain such licenses.

Prop 27 creates a new division within the California Department of Justice to regulate online sports betting. Any online sports betting operation must be licensed by this new unit. The proposition sets some requirements for licensing. For example, to obtain a license for operation of online betting under a tribe's name the operating agreement between the tribe and the online sports betting company that provides the platform must be filed with the new regulatory agency. The agreement is to include such things as a description of any profit sharing allocation between the two entities. Similarly, a company that operates under its own name in partnership with a gaming tribe must have a marketing agreement. The terms of this arrangement are determined solely by the parties.

A set of laws governing online sports betting is created by this proposition. They require sports betting operators to use "commercially reasonable efforts" to verify the age of persons placing bets and to use geolocation and geofencing to determine whether the persons placing bets are in the State of California. Online sports betting operators are to develop and use methods to prohibit people that work for the operators from placing bets. People like coaches, players, referees, team owners are not allowed to place bets. The operators are required to maintain records of all bets placed and by whom. The newly created regulator unit is to investigate illegal activity such as "fixing" of sporting events.

Betting is allowed on sports events including professional, collegiate, and amateur contests. No betting is allowed on youth sports. The newly created division is empowered to authorize betting on other "competitive events" which can include award shows, non-athletic competitions and current events. However no betting is allowed on elections, domestic or foreign.

Payments to the State



Licensed sports betting operators must pay 10% of sports bets made each month less specified expenses, to the California Online Sports Betting Trust Fund. The expenses include: 1) any bets made with credits from promotion offers, 2) prize payments, and 3) federal gambling taxes. Promotion offers are things such as allowing a bettor to place a \$50 bet for free. Prop 27 prevents the regulatory unit it creates from limiting the number or amount of promotional credits to bettors.

Prop 27 requires the funds to be used for state regulatory costs first. The bulk of the remaining funds will be used to address homelessness and the mental health, substance addiction, and housing issues that people who are homeless experience. The money is to be distributed to cities, and counties for those purposes. A 15% portion of the fund will be distributed to tribes that are not involved in online sports betting. The money is to be used for government, health, and economic development of the tribes.

Audits of the Trust Fund are mandated by Prop 27.

Prevention of illegal online sports betting

Prop 27 establishes a penalty to be assessed against a person placing an online bet with a betting operator that is not licensed to operate in California. The penalty is 15% of the amount of the bet. It also assesses a further \$1,000 penalty for every day the original penalty is not paid. The new regulatory unit will have the authority to require unlicensed online betting companies to provide the names of people that place bets with them.

Other parts of the statute

The revenue generated by online sports betting is not to be considered revenue to the California's General Fund for purposes of determining the minimum amount to be budgeted for K -12 and community colleges.

Prop 27 also states that the Legislature cannot amend the statutes without a vote of the people. However, the Legislature may amend the allocation of funds between the one dedicated to homelessness programs and the one for tribal support.

The terms of the proposition also states that Prop 27 does not conflict with Prop 26, so that both may operate if both receive majority votes. The premise seems to be that



Prop 26 regulates sports betting in casinos and racetracks while Prop 27 regulates online sports betting.

Information on legal online sports betting in the US

A CalMatters article notes that a few companies dominate online sports betting in the US. FanDuel commands 31% of the U.S. market, followed by DraftKings with 26%, BetMGM with 16% and Caesars with 12%. Licensing fees for companies to operate online betting in other states require licensing fees in the low single-digit millions or hundreds of thousands of dollars. No other state requires companies to already be licensed in other states.

(calmatters.org/economy/2022/04/california-sports-betting-initiative-backed-by-fanduel-draft-kings-would-block-small-competitors/)

The legislative committee analysis of a bill that was similar to Prop 26 says “Estimates on the size of the sports betting market vary. H2 Gambling Capital, one of the most trusted gambling data companies in the world, estimated that, prior to the Covid-19 pandemic and the cancellation of many sporting events, Americans would legally stake more than \$26 billion on sporting events in 2020. This would be up from \$5 billion in 2017, the last full year before the Supreme Court ruling [that allowed sports betting].”

Fiscal Effects

Both state and local governments could receive increased revenue from Prop 27’s implementation. The size of revenue increase is uncertain. While the proposition increases legal gambling it is possible for tribes to renegotiate their compacts in ways that could reduce revenue to local governments perhaps because online sports betting will reduce the number of people going to casinos to do other legal gambling.

The amount of revenue generated by Prop 27 will be the result of legal online sports betting and potentially the penalties assessed against illegal online sports betting. The increase is expected to be in the one hundreds of millions of dollars each year but likely not more than \$500 million.

The cost of regulation of online sports betting is dependent on how many operators are licensed and on the type and number of betting options offered. Total costs could reach



the mid tens of millions of dollars. Some and perhaps all of these costs will be covered by the revenue.

Further, the Legislative Analyst Office points out that state and local governments may have increased costs if online sports betting leads to increased need for government assistance for people with gambling addictions. There is no cost estimate on this.

Supporters Say:

- Prop 27 requires state of the art technology to ensure that minors do not place bets.
- Prop 27 requires strict auditing of the use of money in the Online Sports Betting Trust Fund to make sure the money is appropriately used for people who are homeless and tribes that are to receive funds.

Opponents Say:

- Online sports betting will not generate jobs or create investment in the state because the sports betting operators will retain most of the profits.
- Allowing promotion offers to be deducted from the gross betting revenue under Prop 27 will reduce the revenue available to the state.

***Supporters:** (Signers of official arguments are in bold)

Yes on 27 - Solutions to Homelessness, Mental Health, and Addiction

<https://yestoprop27.com/>

San Diego Regional Task Force on Homelessness
Middletown Rancheria of Pomo Indians of California
Local Initiatives Support Corporation
Gloria Baxter, mental health nonprofit leader
Big Valley of Pomo Indians of the Big Valley Rancheria
Santa Rosa Rancheria Tachi Yokut Tribe

Major League Baseball
Sacramento Regional Coalition to End Homelessness
Bay Area Community Services
Darrell Steinberg, Sacramento mayor



Libby Shaaf, Oakland mayor
Jerry Dyer, Fresno mayor
Major League Baseball

***Opponents:** (Signers of official arguments are in bold)

YES on 26 - No on 27 Coalition for Safe, Responsible Gaming noon27.com

No on 27 - Protect Tribal Sovereignty and Safe Gaming
noprop27.org

Tribal Alliance of Sovereign Indian Nations
lone Band of Miwok Indians
Salvation Army of San Bernardino
California Nations Indian Gaming Association
Alpha Project for the Homeless
Blue Lake Rancheria California

California Coalition for Rural Housing
California Calls
League of California Cities
California Democratic Party
California Republican Party
Assembly Speaker Anthony Rendon
Senate President Pro Tem Toni Atkins
California Teacher Association
Communication Workers of America
California Nations Indian Gaming Association

*For information about total funding and major contributors, consult one of these sources: Voter's Edge (votersedge.org/ca), Power Search (powersearch.sos.ca.gov/quick-search.php), or Fair Political Practices Commission (www.fppc.ca.gov/transparency/top-contributors/nov-22-gen.html). The latter lists only the contributions of the campaign committees.