

1 SR95  
2 170213-1  
3 By Senator Hightower  
4 RFD: Rules  
5 First Read: 28-MAY-15

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8 REQUESTING AN OPINION OF THE ALABAMA SUPREME COURT  
9 ON SB453 OF THE 2015 REGULAR SESSION.

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11 BE IT RESOLVED BY THE SENATE OF THE LEGISLATURE OF  
12 ALABAMA, That we respectfully request the Honorable Chief  
13 Justice and Associate Justices of the Alabama Supreme Court,  
14 or a majority of them, to give this body their written  
15 opinions on a constitutional question which has arisen  
16 concerning the following pending Senate Bill, SB453, relating  
17 to a lottery and gaming.

18 Section 65 of the Constitution of Alabama of 1901,  
19 provides as follows: "The legislature shall have no power to  
20 authorize lotteries or gift enterprises for any purposes, and  
21 shall pass laws to prohibit the sale in this state of lottery  
22 or gift enterprise tickets, or tickets in any scheme in the  
23 nature of a lottery; and all acts, or parts of acts heretofore  
24 passed by the legislature of this state, authorizing a lottery  
25 or lotteries and all acts amendatory thereof, or supplemental  
26 thereto, are hereby avoided."

1 SB453 proposes to amend Section 65 to allow for the  
2 operation and regulation of gaming by four existing racetracks  
3 in Alabama where pari-mutuel wagering is currently legal.

4 Because this proposed constitutional amendment is  
5 silent on the operation and regulation of gaming on tribal  
6 lands, there exists uncertainty as to the constitutionality of  
7 such operations and the Governor's authority or obligation to  
8 enter into a compact for their operation. As such, in  
9 deference to this legislative body so that we may properly and  
10 constitutionally perform the duties of our office, a written  
11 opinion is requested concerning the following important  
12 constitutional questions:

13 (1) Under what circumstances is the Governor  
14 authorized or obligated to enter into negotiations for a  
15 compact to allow gaming on tribal lands?

16 (2) What, if any, is the role of the Legislature in  
17 those negotiations?

18 (3) What, if any, is the impact of pending Senate  
19 Bill 453 on that authorization or obligation?

20 (4) Is it within the Governor's or the Legislature's  
21 authority to enter into any agreement, formal, or informal to  
22 allow gaming on tribal lands, to allow for the expansion of  
23 gaming on tribal lands, or to allow for the expansion of  
24 tribal lands for the purpose of generating revenue, and if so,  
25 does Senate Bill 453 impact that authority?

26 BE IT FURTHER RESOLVED, That the Secretary of the  
27 Senate provide sufficient true copies of this pending bill and

1       this request to the Clerk of the Supreme Court of Alabama for  
2       consideration of this request.