

The casino law repeal movement, once largely dismissed as the whimsical campaign of a few antigambling zealots, has assembled a legal team of experienced constitutional specialists to carry the fight for a statewide repeal vote into the state's highest court, amid signs that the repeal effort is gaining strength.

Two Boston lawyers who have worked in the state attorney general's office, Thomas O. Bean and H. Reed Witherby, will lead the team representing the anticasino citizens campaign Repeal the Casino Deal in an ongoing case before the Supreme Judicial Court. The central question for the court to decide is whether a binding question to roll back the casino law and ban the casino industry from Massachusetts will appear on the November statewide ballot.

The state's casino applicants, each of which has already invested millions of dollars in their bids, are taking the repeal effort seriously. Five of the six applicants for gambling licenses to be awarded this spring filed a legal motion Monday to intervene in the case, arguing that the repeal question should not appear on the ballot.

"They don't want the people to vote," said Bean, speaking of the casino industry. "It's reasonable to say they are concerned."

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A new poll suggests that opponents may have a shot to overturn the law, if they can get the repeal on the ballot.

Fifty-three percent of registered voters support locating casinos in Massachusetts, while 39 percent disapprove, according to a January 16-19 survey by The MassInc Polling Group. The poll of 504 registered voters, conducted for WBUR, had a margin of error of 4.4 percent.

Casino supporters should be concerned about the relatively close results, said Steve Koczela, president of The MassInc Polling Group.

“Just because you’re ahead right now, I would not sleep easily with that kind of margin,” Koczela said. “The numbers can move, especially late in the game.”

Earlier polling done late last year by the Western New England University Polling Institute showed greater public comfort with the casino industry.

That survey, performed last November, suggested that 61 percent of Massachusetts adults support the establishment of casinos in the state and that just 33 percent oppose it, which was similar to the results of polls in 2009 and 2010.

Massachusetts legalized casino gambling in November 2011, establishing a state gambling commission to license as many as three resort casinos and one slot machine parlor.

No casino project can win a license unless residents of its host community endorse the plans in a local referendum, and over the last year, casino opponents have killed several projects at the municipal ballot box, defeating referendum in West Springfield, East Boston, Palmer, and Milford.

Opponents also launched a signature drive to put a repeal of the casino law on the November ballot.

But Attorney General Martha Coakley concluded last year that the repeal petition was unconstitutional, saying the repeal would “impair the implied contracts between the commission and gaming license applicants” and illegally take those contract rights without compensation, according to the decision issued Sept. 4.

Leaders of the repeal movement appealed to the Supreme Judicial Court, winning the right to collect signatures while the appeal is pending. They collected more than the minimum 68,911 valid signatures necessary to qualify for the ballot.

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Meanwhile, residents of Springfield, Everett, and Revere have voted in support of resort-style casinos, and Plainville, Raynham, and Leominster voters have backed slot parlor proposals.

Revere voters will go to the polls again, on Feb. 25, to decide the fate of a new casino proposal from Mohegan Sun.

The gambling commission is scheduled to award the state's sole slot parlor license in late February and two resort casino licenses by May.

The repeal case is expected to be argued in court in May and be decided by late June or early July.

Bean, a partner at Verrill Dana in Boston, is a former Massachusetts assistant attorney general, who has argued cases before the US Court of Appeals and the Supreme Judicial Court, according to the repeal group.

Witherby, from the Boston firm Smith Duggan, was an assistant attorney general for seven years and has argued dozens of appellate cases.

The lawyers agreed to take the case at discounted rates.

"This case is not about whether casinos are good public policy," Bean said in an interview. "It's about whether the people will get to vote."

Witherby said litigation over the 2008 ballot effort to ban live dog racing in Massachusetts applies to the current lawsuit over the question to ban casinos.

"If the owner of a dog track that has been licensed for decades can't prevent the people from

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voting to outlaw dog racing, it's hard to see why mere applicants for a license should be able to prevent the people from voting on casino gambling," said Witherby.

Three other lawyers are helping the repeal effort on a pro bono basis: Matt Cameron, who also advises the No Eastie Casino citizens group; David Kravitz of the firm Murphy & King; and Margaret Monsell, a staff lawyer at Massachusetts Law Reform Institute, according to the Repeal the Casino Deal campaign.

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