**SENATE COMMITTEE**

**ON**

**GOVERNMENTAL ORGANIZATION**

**Lou Correa**

**Chairman**

**April 8, 2014**

**Sacramento, California**

**Informational Hearing**

**Tribal-State Compact between the State of California**

**and the Karuk Tribe**

 **SENATOR LOU CORREA:** \_\_\_\_\_\_\_ with a quorum we’ll start with the first item that is not going to require a vote today and that will be—we’ll start out with the informational hearing on the Tribal-State Compact between the State of California and the Karuk Tribe. This Compact was executed December 4, 2013 between Governor Brown, on behalf of the State of California and the Karuk Tribe of Siskiyou County. This compact allows the Tribe to operate up to 1,500 gaming devices, and provides that the Tribe will share up to 10 percent of the casino’s net wins with tribes that are not gaming or substantially benefiting from gaming. This Compact contains no revenue sharing requirements between the State and the Tribe relating to payments being paid into the General Fund; however, the Tribe will be required to make payments into the Special Distribution Fund as specified.

 Now in terms of process—that is the Senate process—the Senate policy for ratification of tribal state compacts provides for an informational hearing—which is what we’re doing right now—relative to the essence of the Compact. And, of course, then the Compact is non-amendable by the Legislature.

 The Senate vehicle for ratification of this Compact will be SB 1224—and I will be authoring that bill—that bill is currently with the Senate Rules Committee. Soon that bill will be referred to the Senate floor and will be taken up for consideration by the Senate as a whole. As I mentioned earlier, we cannot amend this Compact. The vote on the Senate floor will be a vote up or down.

 If I can, I’d like start out with a discussion on this informational hearing with some comments from Mr. Joe Dhillon, Senior Advisor for Tribal Negotiations, for Governor Brown. Welcome, sir.

 **MR. JOE DHILLON:** Good morning, Chairman, Senators. Thank you. The Governor recognizes the necessity for governments of sovereign tribal nations to generate the revenue to provide the essential services and improve the quality of life of the people they serve. This Compact fulfills the promise of the Indian Gaming Regulatory Act by promoting strong tribal governments, and not simply because it’s a matter of federal law, but also because this State has an interest in supporting the economic development and self-sufficiency of tribal governments within our borders. The Compact achieves this goal while also protecting casino patrons, employees, and the interest of the local community.

 As you noted, Chairman, the Compact authorizes the Tribe to operate up to 1,500 devices. The revenue generated by the facility will provide the Karuk government with additional means to promote the health care, educational, natural resource, other needs of the 3,700 members of the Tribe (Karuk is the second largest tribe within the state of California). The Tribe will pay its pro rata share of the money appropriated by the State to …

 **SENATOR CORREA:** I don’t mean to interrupt you. You said, second largest tribe in terms of?

 **MR. DHILLON:** In terms of membership. Yes, sir.

 **SENATOR CORREA:** What’s the membership?

 **MR. DHILLON:**  3,700.

 **SENATOR CORREA:** Thank you.

 **MR. DHILLON:** Yes, sir.

 **SENATOR CORREA:** Go ahead.

 **MR. DHILLON:** The Tribe will pay its pro rata share of the money appropriated by the State to regulate tribal gaming and to fund programs which seek to prevent and offer treatment for problem gambling. This simple and equitable formula is based on the number of gaming devices operated by the Tribe as a portion of those in operation statewide. If the Tribe operates more than 350 devices it will also share 10 percent of its gross slot revenue with the other tribes that are not gaming, or, operating limited gaming facilities. These payments will be made into the Revenue Sharing Trust Fund or the Tribal Nation Grant Fund.

 The Compact incorporates the principle of regulatory, environmental, labor, and public protection terms of the compacts Governor Brown has signed with other tribes and as ratified by this Legislature, further reflects the Governor’s commitment to ensure that local governments and tribes work together so that the conditions under which gaming is permitted are appropriate for their particular circumstances. The Compact prohibits the Tribe from commencing construction on its proposed gaming facility until agreements are in place with both the city of Yreka and Siskiyou County. The agreements must address the timely mitigation of any significant effect on the environment broadly defined …

 **SENATOR CORREA:** Can you repeat that again?

 **MR. DHILLON:** Yes, sir. The Compact requires that the Tribe have intergovernmental agreements in place with the locally affected jurisdiction. In this case, the facility is actually within the city limits—the city of Yreka. But the Tribe has agreed—the Compact required that they have an intergovernmental agreement with both the city and the county—here in Siskiyou County. The agreement must address the off-reservation impacts of the gaming facility. And that agreement must be in place either through agreement or arbitration before the Tribe can commence its construction of their facility.

 **SENATOR CORREA:** Thank you very much.

 **MR. DHILLON:** The city and the county have already commenced the process of negotiating the intergovernmental agreements required by the Compact. I understand the county has some concerns with the baseball style arbitration provision included in the Compact. However, this approach has been supported by CSAC and from my perspective works well because it gives the parties the incentive to find common ground to make meaningful offers, and if they can’t come to some agreement, it provides a fair and efficient resolution for resolving their disputes.

 And I also should note that the Tribe has land, which, under federal law is eligible for gaming. The need a compact to engage into Class III gaming, but without a compact or the measures required by it, they can engage in to Class II gaming.

 Thank you, Chairman. I’ll be glad to take any questions.

 **SENATOR CORREA:** Questions from the Committee. Then we’ll move on to the Tribal Perspective. I have Chairman Russell Attebery. Welcome, sir.

 **MR. RUSSELL ATTEBERY:** (Gives greeting in native language) Hello. How are you?

 First of all I’d like to say that I’m honored to be here and be able to speak on behalf of the Karuk people.

 **SENATOR CORREA:** Welcome, sir.

 **MR. ATTEBERY:** Thank you. The Karuk Tribe, as Joe said, was federally recognized in 1977\_\_\_\_\_ 1979, and we’re the second largest tribe in California.

 In 1997, the Tribe acquired 200 acres in Yreka, California, and it was accepted into trust in 2001.

 On April 3, 2012, the NIGC provided an opinion that the Yreka property qualifies as restored lands and authorized it for gaming, reversing a ruling from 2004. It’s a 60-acre project site: 10 acres are trust land for the casino; and 50 acres are fee(?) land parking.

 The Karuk Tribe has currently no outstanding long-term debt. We’re a tribe that has prided ourselves in clean audits for as long as I can remember. And the Tribe has a state compact finalized and it has been signed by the Governor. And we’re currently seeking ratification.

 From a personal point of view: The Karuk Tribe is in an area where—you say it’s the second largest tribe; the first and the second largest tribes also reside along the Klamath River. The whole area was timber-based, and in the 1990s the timber-based economics were gone. We suffered many years—20 years—of trying to restore the economics up there. And really, the result was a lot of our tribal members and community members had to move to different places within the region to find work and support their families.

 **SENATOR CORREA:** So if I can restate what you are trying to say or did say: So the timber industry was your way of life—your livelihood—for a number of years and that went away about 20 years ago, and therefore, you have no way to sustain yourselves economically?

 **MR. ATTEBERY:** Yes.

 **SENATOR CORREA:** Thank you.

 **MR. ATTEBERY:** If we wanted to go a little deeper into that with maybe my father and my grandfather’s era: They were sustainable with the fish, the wild game, planting their gardens and growing their own vegetables, of the barter system along the river. And, of course, that’s kind of become more of a hobby with the regulations, or recreation, than a way of living. So, you know, with the loss of the timber industry it’s been a struggle. We’ve had tribal members leave home.

So the casino project is going to be a huge economic value to not only the Tribe, but the community members. We expect 300 to 350 jobs plus the training that will be involved. You go 20 years without having to sustain a work ethic, you know, you’re going to need some training in that area. So again, the training will, say it be in construction, if you will, not only will they be trained to do that job; it’s something they’ll become certified and be able to use later on in life.

 We’re really looking forward to this.

 We’re not looking to, say, quote, “put money in our members’ pockets.” Because we have such a large tribe, a per cap(?) is not feasible. So our main issue is to put them into work. Maybe down the line we’ll discuss—our council has discussed it a little bit—there may be a possibility of doing something for our elders, doing something as far as a scholarship program for our kids, and everybody in between goes to work. So that’s where we’re at as far as, you know, doing for our members.

 We are not looking for individual gain out of this. We’re looking to put some more stability into the family life—the way I remember it when I grew up in Happy Camp—and that came with having that work ethic and the kids seeing that work ethic and then later doing that.

 So we have three medical clinics, three dental clinics in each area: Happy Camp, Orleans, and Yreka. So the Tribe, while we are reservationalists, we do not have a reservation. In the late 1800s in the Hoopla Reservation, there was consensus that everybody would go to that reservation. It’s difficult to travel that mountainous terrain today, let alone in the late 1800s, so our tribe remained where they were at without a reservation. But with the federally recognized authorization in 1979, we came from a small trailer where we did our business, to some larger offices and we’ve come a long way. But we still fought the issue of no jobs, of people leaving.

 When I went to school there, it had lots of money—200 students. Now we’ve depleted to 60 students and zero money and it shows.

 So there’s lots of programs we want to do for our youth so we can help out with the problems that come with idle hands. We can get more activities for our kids. That’s going to be huge. That’s one of our big directions.

 So, you know, with that being said, I think it’s evident that this is much needed.

 Joe Dhillon and Jacob Babsmith(?) were both onboard when we started this and they both asserted that we want to make sure and we …

 **SENATOR CORREA:** Excuse me, Mr. Chairman. I’m going to interrupt you just for a moment. I want to take this special moment and establish a quorum. Madam Secretary, would you please call the roll.

 **MS. BRENDA HEISER:** Correa.

 **SENATOR CORREA:** Here.

 **MS. HEISER:** Correa present. Berryhill.

 **SENATOR BERRYHILL:** Here.

 **MS. HEISER:** Berryhill present. Cannella. de León. Galgiani.

 **SENATOR GALGIANI:** Here.

 **MS. HEISER:** Galgiani present. Hernandez. Lieu.

 **SENATOR LIEU:** Here.

 **MS. HEISER:** Lieu present. Padilla.

 **SENATOR PADILLA:** Here.

 **MS. HEISER:** Padilla present. Torres. Vidak.

 **SENATOR VIDAK:** Here.

 **MS. HEISER:** Vidak present.

 **SENATOR CORREA:** We have a quorum. Please continue, sir.

 **MR. ATTEBERY:** Okay. I guess the bottom line is, is we have a really, really good opportunity to provide some jobs and some positive things for our kids; to expand our health clinics, which we have lots of people waiting in line and lots of referrals out to different places because we can’t accommodate and because of facilities, so we expect to expand those. We expect to expand our educational opportunities for our kids. I’m a former teacher and educator so that weighs heavily on me as an individual. It’s something that I want to do. So those types of opportunities. And I guess I’ll basically say it again; is we’re really not in it as individuals. I’m very committed to serving the Karuk people and abiding by the mission statement that we are trying to preserve the traditions and customs and culture of our tribe. The best way we can do that is through education and taking care of our elders and providing jobs, and that’s what that will do.

 **SENATOR CORREA:** Thank you very much. Ms. Goodwin, did you want to add some statements as well?

 **MS. JACLYN GOODWIN:** Sure. Hi. I’m Jacklyn Goodwin, the self-governance coordinator. I’m a tribal member also. I’ve been working in this position for about a year and a half. And before that, I was a grant writer for the Tribe.

So it’s been my responsibility to do the coordination and negotiations with the Governor’s office on the Compact terms and also working with the city of Yreka and the county on our intergovernmental agreement. We’ve been meeting with the city of Yreka almost weekly for the last two months trying to work out the details of the agreement. And we’ve been meeting with the county since December—about monthly—on the issues, and we’re scheduled to meet with them pretty soon.

 We want this casino to be a very positive impact on the local community so we’ve proposed very fair and reasonable compensation for police services, fire, water supply, transportation, and we’re creating a fund for local tourism, and transportation infrastructure improvements. We want to hire both tribal members and people from the local community. And, you know, throughout this process it’s been a balancing act between upholding tribal sovereignty and also understanding that needs to be an open and fair, you know, business so we understand that.

 With the addition of 300 jobs, the Karuk Tribe will be one of the largest employers in Siskiyou County. We already employ almost 200 people with the Karuk Tribal Housing Karuk Community Development Corporation and just the Karuk Tribe as a whole. And, you know, it’s just going to be really important for us to have this opportunity to provide such a positive impact on the community and it’s really important.

 So we thank you for your time. And we hope that you’re able to help us in this successful endeavor.

 **SENATOR CORREA:** Mr. Chairman, to either you or Ms. Goodwin; what is the size and scope of the project?

 **MS. GOODWIN:** Phase I: We’re proposing a 36,000 square foot casino facility. It will be able to accommodate 500 machines. We’re going to have 349 Class III machines and maybe an additional 100 Class II machines, and 120-seat restaurant, 300 parking stalls. And then Phase II, if we’re successful in Phase I, would be an addition of 20,000 square feet to the gaming floor and an 80-room hotel, which will be about 48,000 square feet.

 **SENATOR CORREA:** Thank you. Any questions from the Committee? Then I’ll have the local government perspective—some testimony. Steve Baker, City Manager, city of Yreka. Welcome, sir.

 **MR. STEVE BAKER:** Good morning.

 **SENATOR CORREA:** Good morning, sir.

 **MR. BAKER:** Thank you for the opportunity to talk to you this morning about what’s going on up in Yreka. I wanted to mention a little bit about Yreka just in case people confuse us with Eureka over on the coast, or any place else in this state. We’re a relatively small town—7,700 people. We’re closer to Oregon than just about anything else—about 20 miles away.

 As the Karuk Tribe mentioned, our economy used to be based on timber. It’s not anymore. Our unemployment rate is about twice the state average—just a little bit less. Our income is about half the state average, so there are some challenges that we have mutually.

 The Tribe has talked about doing economic development, and we’re encouraged to have economic development happen up there. The people across the table from me are very sincere in trying to make the Tribe move forward with economic development.

 What we’re really talking about is to make sure how we get there. And we don’t think that the compact is yet ready for legislative action. The final, we’ve gone through a number of discussions about the Draft Tribal Environmental Impact Report and also the Final Tribal Impact Report. The Compact includes city services as an enforceable obligation and requires compensation for law enforcement, fire protection, and this is a quote from the Compact: *any other public services to be provided by the city*. The Tribe, in looking at possibly going to arbitration, contends that when the Legislature passes this compact, it can force the city to provide water and waste water services through arbitration even if the city doesn’t agree to the terms of providing those services. And they say that the Compact will have the force of law.

 The environmental impact report; we submitted a number of concerns about its adequacy. I want to go through at length about waste water. We’re currently at capacity with our waste water treatment capacity. The impact report indicated that was not the case. We have planned an expansion of about 100,000 gallons per day that we’re working on. We didn’t plan for the casino when we initially started this project a number of years ago and it didn’t contemplate the casino at all. This project is going to cost about $3 million. We have 3,000 households in Yreka, so you can kind of do the math. The Tribe’s proposal would be to take about a third of that capacity which we hadn’t planned for.

We’re in the process of trying to get a study done. We don’t have it yet but it’s close, so that we can talk about that.

We don’t have any developmental impact fees covering this, so whatever costs aren’t covered in any other way, the rate payers end up picking up.

The Tribe agrees that this impact wasn’t covered fully by the TEIR, and that’s why we’ve done the additional study, and this is a significant impact that we’ve got.

There are four other studies that have been proposed to identify the significant impacts that were not fully addressed in the EIR. They are water treatment and supply. We have a 26-mile pipeline that goes from a creek that goes into the Klamath River, and so, it’s a significant investment over the years that we’ve tried to make, and so, we want to make sure that we’re covered on that in terms of capacity and that sort of thing.

There’s also the water distribution actual pipes of that the Tribal casino will need to connect with.

And waste water collection, again, it’s do we have the size of pipes in the right place because we weren’t planning for this? Do we have the pipes in the right place? We’re doing a study on that.

And then also, waste water treatment that I already mentioned.

And, a traffic study, which we believe that the traffic study was inadequate. Caltrans also saw that part of it was inadequate as well. It’s something that we’re working together on with the—actually, the member is right here—we’re across the table from them, working these things out.

We’ve been meeting with the Tribe over a year. As Ms. Goodwin mentioned, over the last couple of months we’ve meeting weekly—it seems like more but it’s just weekly—to try to work these things out. We’re making progress we think. But we really need to complete this because any impacts that the casino has with 3,000 households, 7,700 people, there just aren’t other ways that we can address the cost of those things.

So we’re taking this seriously. We’re making progress. The infrastructure that the Tribe is looking at using are our largest expenses. It’s incredibly expensive to do infrastructure. We’d like time to make this work. We’re not opposed to the project. In fact, I’ve been impressed with the Tribe in the way that they’re looking at making the investments in the long term tribal infrastructure and economic development, as opposed to giving money out to tribal members. But we really can’t shoulder the economic burdens of this project without it being explicitly in the intergovernmental affairs agreement. We’re working on it.

But we would request that you make sure to let the Tribe know that we need to work these things out, not just send it to arbitration, but give us time to work these things out.

**SENATOR CORREA:** Thank you very much, Mr. Baker.

Any comments or questions from the Committee?

Let me just say, before I open it up for public comment and those who would support or oppose this: I just wanted to remind folks that this compact has an expiration date—July 31st; that’s when it expires.

Second of all, Mr. Baker, this is a compact we’re going to vote on. We’re not going to be able to amend it, so it’s going to go the Floor for a vote out or a vote down. And I do hope that you come to an agreement, whether it’s through legal system arbitration, what have you. These are very important issues. You’re neighbors. You’re going to have to live together so-to-speak. If there is no compact, as you know, they can continue to operate at Class II and operate essentially without a compact. What I’m trying to say is the time is of the essence. We have a little bit of time. You can work out your issues—and I’m hoping that you do—in a civil matter so-to-speak to come up with a win-win solution for all involved.

Again, thank you very much for coming.

What I would like to do at this point, open up this …

Oh, Ms. Christian. I’m sorry. You wanted to speak on behalf …

**MS. CATHY CHRISTIAN:** Senator, I just thought … I’m here representing the city of Yreka.

I just want to address some technical points. And that is on the expiration provision. The Compact, as far as on July 1st, can be extended by the Governor and the Tribe. So it is in fact not a drop-dead date; there’s still things to be worked out.

I’d like to make an observation about the arbitration. That I’ve been through with several jurisdictions. They are very, very time consuming and expensive, and they take a long time. And actually what they do is set up a confrontational relationship between the local jurisdiction and the Tribe. It’s far better to work out these issues before you have to go to arbitration, because if you don’t, then the city of 7,700 people is going to have to hire hydrologists, traffic engineers, any other expert necessary to show what the impacts are and what the cost of mitigation would be.

If an appropriate EIR is done at the very beginning of the process, then the compact works, because then you can negotiate how you’re going to mitigate for what everybody agrees are the impacts. If you haven’t agreed on what the impacts are, then you’re going to force the parties to arbitration.

So it’s not the end of the world to extend this compact a little bit. The Governor and the Tribe have it within their power to do that. The city has no ability to enforce the provisions of the Compact; only the state can do that. So it’s really important at this stage of the proceedings that a real EIR with real identification of impact and mitigation is arrived at. And if the Tribe wants to use additional capacity for an already planned waste water treatment facility, then that should be discussed. Because if it isn’t, then the rate payers and the taxpayers of the little city of Yreka are going to be faced with a third of their capacity being gone immediately. And so I don’t want to in any way detract from the goodwill of the Tribe or the Governor’s office or this Committee in trying to reach a solution. But you do have a little bit of power here to say, “Hold on just a minute. Before we ratify this, we would like to see that there’s an agreement on mitigating the impacts,” and that is within your legislative prerogative. The Constitution says that you can ratify or not ratify compacts. We’re not asking for an amendment; we’re just asking for you to help the city and the Tribe give a little pressure to get this mitigation issue and impact issue identified. It is the most critical issue that happens between local jurisdictions and tribes. It happens over and over again across the state. So I ask your indulgence and urge you to consider that possibility.

**SENATOR CORREA:** Let me \_\_\_\_ to you that I concur with you; that I’m hoping that you guys come up with a win-win solution here. But again, it expires, as you said, July 1st. And then we have July, August and then we break, so, you know, the timing is yours. You have the power to cut a deal or not cut a deal that’s a win-win for everybody. And again, no compact means they go to Class II gaming. So I’m hoping that everybody comes together and comes up with a solution that is good for the city, as well as for the Tribe.

Anybody else want to make comments?

**SENATOR BERRYHILL:** If I could.

**SENATOR CORREA:** Yes, go ahead sir.

**SENATOR BERRYHILL:** Yeah, when it comes to Class III and Class II, you’ve got Class II right now. How many machines?

**MS. \_\_\_\_:** No. We don’t have Class II gaming.

**SENATOR BERRYHILL:** Oh, you don’t have Class II ….

**MS. \_\_\_\_\_:** No. We don’t have a facility at all.

**SENATOR BERRYHILL:** Oh. You don’t have any facility yet. Really, the difference, what’s the difference to you as a tribe between the II and the III? I mean, I’ve gone out. I’ve looked at them. I can’t tell the difference of the doggone things. I’m not a professional. But is there that much revenue difference between the Class III and the Class II machines?

**MR. ATTEBERY:** There is some. There’s not a lot. With Class II you’re not allowed table games and that could be a deterrent to people actually coming there. So there is a difference. Given the example if successful, then we will probably go above 349 Class III machines. We—just a word of mouth from other casinos: They said it’s paid off for them to leave the Class II machines that they had; go above the 349 Class III; negate the 1.1 million revenue sharings that they get and actually pay into it, and it’s still profitable for …

**SENATOR BERRYHILL:** So there’s incentive here for both the—all you folks to come together and get the “yes.” Because you don’t get anything if we don’t get Class III, correct? I mean, there’s no infrastructure improvements, there’s no nothing.

**SENATOR CORREA:** Yeah. They’re out completely. That’s correct.

**SENATOR BERRYHILL:** So I, too, join with the Chairman in hoping that everybody can come together on a plan and bring it to us so that we can all … it always makes it a lot easier if people aren’t fighting. And we understand you have differences but you’ve got, what, another month or so and we’re eagerly waiting a good outcome.

**MR. ATTEBERY:** A real quick comment. You are correct. The machines, the way they’re built nowadays, I don’t, you know, they may be a little bit bingo card on the side, but other than that you can’t tell the difference hardly between Class II and Class III. Some casinos stayed completely Class II and are very successful.

**SENATOR BERRYHILL:** Yeah, but generally you need those board games too. It does enhance.

**MR. ATTEBERY:** Sure.

**SENATOR BERRYHILL:** I get it. All right.

**SENATOR CORREA:** Okay. I just wanted to add some comments to the vice-chair here. And for your information, I represent central Orange County. There’s a place called Disneyland. It’s in my district. In a place called the city of Anaheim is where I grew up and the city of Anaheim hosts Disneyland. And I can tell you right now, both of those entities work side by side, hand-in-hand to make sure what one does benefits the other and vice-versa. And it actually works pretty well. So anyway, the best of luck and I hope you come to an agreement.

Any other comments from the Committee?

Then what I’d like to do is call up the support on this measure.

**MR. JACK GRIBBON:** Thank you, Mr. Chair and Members. My name is Jack Gribbon. I represent UNITE HERE, the hotel and casino workers union. We are here in very, very strong support of this compact. The obvious benefits that the chairman laid out with respect to the Tribe and economic development and education of kids and stuff is also partnered with an agreement that they’ve signed—that they’ve executed—that is enforceable that will allow their workers to organize and bargain over their wages and benefits and working conditions should they so choose to do that, which creates an enormous amount of economic development opportunities for the workers and for the surrounding area of Yreka. So we are in very, very strong support of it. And we hope it works out.

Thank you.

**SENATOR CORREA:** Others in support? Opposition? Public comment? Going once. Going twice. Very good.

I want to thank all of you for your comments this morning. And as I mentioned earlier in terms of process, from here, as soon as this measure is moved from the Rules Committee to the Senate floor, we’ll take a vote on it.

Thank you very much.

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