

Senate Committee on Governmental Organization
Informational Hearing
Tribal-State Gaming Compact between the State of California and the Jackson Rancheria
Band of Miwuk Indians
May 12, 2015 – 9:30 a.m.
Room 4203 State Capitol

Compact Overview

SUMMARY

The Tribal-State Gaming Compact (hereafter “Compact”) between the State of California and the Jackson Rancheria Band of Miwuk Indians (hereafter “Tribe”) was executed on February 1, 2015. This Compact supersedes the 1999 compact between the Tribe and the State of California.

The Compact authorizes the Tribe to operate a maximum of 1,800 slot machines (200 less than authorized under the Tribe’s 1999 compact) at no more than two gaming facilities, and only on those Indian lands held in trust for the Tribe as of the execution date of this Compact, as described. The Tribe may combine and operate in each gaming facility any forms and kinds of gaming permitted under law, except to the extent limited under the Indian Gaming Regulatory Act (IGRA) and any applicable regulations adopted pursuant thereto, this Compact, or the Tribe’s gaming ordinance.

The Tribe has agreed to pay the State its pro rata share of the costs the State incurs for the performance of its duties under the compact as well as approximately 8% of the casino’s net win, to be shared with tribes that are not gaming or that otherwise are not substantially benefiting from gaming. Additionally, the Compact provides a framework for the sharing of gaming revenue with Amador County and other local jurisdictions for infrastructure improvements and fire, law enforcement, public transit, education, tourism and other services. Furthermore, the Compact provides incentives for investments in renewable energy projects, non-gaming related economic development projects and health care facilities that provide a mutual benefit to the Tribe and the local community.

The Governor’s Office points out that in order to assure mitigation of off-reservation impacts of gaming related projects, the Tribe will engage in a process that identifies impacts and produces a binding agreement with Amador County on specific mitigation measures. Also, to protect the health and safety of patrons, guests, and employees, the gaming facility must meet pertinent provisions of the California Building Code and the California Public Safety Code.

According to the Governor’s Office, certain terms of the Compact are consistent with provisions of more recent compacts related to licensing, compliance enforcement and mitigation of off-

reservation gaming impacts, but have been updated to reflect, among other things, the evolving nature of financial markets, as well as the professionalism of the Tribe's regulators and their constructive relationship with state gaming regulators.

The Governor's Office contends that this Compact continues to assure the protection of the health and safety of the casino patrons, guests and employees and affirms the role of a tribal-state association of gaming regulators to provide a framework within which tribal and state gaming regulators can exchange information and collaborate to ensure that the gaming public has continued confidence in the integrity of casino operations.

Once effective (legislative ratification and federal approval required), this Compact will be in full force and effect for State law purposes for 20 years following the effective date. The vehicle identified for providing the constitutionally required legislative ratification of this Compact is AB 475 (Bigelow).

EXISTING LAW

Existing law provides, under the Indian Gaming Regulatory Act (IGRA), for the negotiation and conclusion of compacts between federally recognized Indian tribes and the state for the purpose of conducting Class III gaming activities on Indian lands within a state as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments. Existing law expressly authorizes a number of tribal-state gaming compacts between the State of California and specified Indian tribes. Existing law authorizes the conduct of Class III gaming activities to the extent such activities are permitted by state law, a gaming compact has been concluded by a federally recognized tribe and the state, and the compact has been approved by the Secretary of the Interior.

Existing law limits the operation of Class III gaming activities to Indian lands acquired on or before October 17, 1988. Existing law also provides for certain exceptions to conduct gaming activities on Indian lands acquired after October 17, 1988.

Existing law defines Indian lands to mean all lands within the limits of any Indian reservation, and any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

Existing law requires the state to negotiate to conclude a compact in good faith with an Indian tribe having jurisdiction over the Indian lands upon which the Class III gaming activity is to be conducted. Existing law also provides the United States district courts with jurisdiction over any cause of action initiated by a tribal government alleging that the state failed to negotiate in good faith to conclude a compact. Furthermore, existing law prescribes the remedy, mediation

supervised by the courts, if it is found that the state failed to negotiate in good faith to conclude a compact.

Existing law authorizes the Governor, under the California Constitution, to negotiate and conclude compacts, subject to ratification by the Legislature.

Brief History and Background

The Jackson Rancheria has been a federally recognized band of Miwuk Indians since 1895 and occupies over 1,400 acres of land near the city of Jackson in Amador County. The Tribe has operated a bingo hall since 1985 and entered into a compact with the State of California for Class III gaming in 1999.

According to information provided by the Tribe, the Jackson Rancheria is a small tribe (18-voting members) that is deeply involved in the community and economic life of Amador County. The Tribe is a responsible steward of its tribal lands, which encompass a diverse ecosystem in the Sierra foothills. The Tribe references that its beautiful RV Park, which is tastefully situated in a secluded forest setting, is a regional attraction and nationally recognized as an elite facility.

The Tribe emphasizes that it has demonstrated its dedication to economic development and public projects benefitting both the Tribe and the community – these include long-standing tribal contributions to law enforcement and other public safety programs in Amador County, such as fire protection, as well as significant contributions to the hospital, recreational facilities (including the Indian Grinding Rock State Park), and the County Fair. Additionally, the Tribe points out that in the past ten years, it has provided millions of dollars to support a host of community programs ranging from schools and the arts, drug and alcohol abuse prevention, care for the elderly, and employment of Native American youth. Furthermore, the Tribe notes that it has invested in programs which have enhanced its workforce (e.g., establishment of a local health clinic and adoption of a minimum wage that exceeds California’s minimum wage).

In 1999, the Tribe and the State entered into a Tribal-State compact, which enabled the Tribe, through revenues generated by its gaming operation, to improve the governance, environment, education, health, safety, and general welfare of its citizens, and to promote a strong tribal government, self-sufficiency, and to provide essential government services to its citizens.

The Tribe’s current casino operation, known as the Jackson Rancheria Casino Resort, has approximately 1,650 Class III gaming devices (slot machines), offers 36 table games, five restaurants, a hotel with 86 rooms, and both indoor and outdoor entertainment venues. The casino resort complex also employs approximately 1,200 people. The Tribe reports that “it has no current plans to expand the facility, and facing competition from other tribal casinos, is not likely to do so in the foreseeable future.”

The Compact's preamble indicates that the State and the Tribe recognize that the exclusive rights the Tribe will enjoy under this Compact provide a unique opportunity for the Tribe to continue to engage in gaming activities in an economic environment free of competition from the operation of slot machines and banked card games on non-Indian lands in California and that this unique economic environment is of great value to the Tribe.

Additionally, the Compact's preamble specifies that in consideration of the exclusive rights enjoyed by the Tribe to engage in gaming activities and to operate the number of gaming devices specified in the Compact, and the other meaningful concessions offered by the State in good faith negotiations, and pursuant to IGRA, the Tribe reaffirms its commitment, *inter alia*, to provide to the State, on a sovereign-to-sovereign basis, and to local jurisdictions, fair cost reimbursement and mitigation from revenues from the gaming devices operated pursuant to this Compact.

The Compact's preamble also states the Tribe and the State share an interest in mitigating the off-reservation impacts of the gaming facility, affording meaningful consumer and employee protections in connection with the operations of the gaming facility, fairly regulating the gaming activities conducted at the gaming facility, and fostering a good-neighbor relationship.

Furthermore, the Compact's preamble stipulates that the State and the Tribe have concluded that this Compact protects the interests of the Tribe and its members, the surrounding community, and the California public, and will promote and secure long-term stability, mutual respect, and mutual benefits.

Key Provisions of the Compact

Scope of Class III Gaming Authorized: The Tribe is authorized to operate up to 1,800 gaming devices (slot machines), banking or percentage card games, and any devices or games that are authorized under state law to the California State Lottery. The Tribe may not operate roulette games (table or mechanical) or any game that incorporates the physical use of a die or dice. The Tribe shall not engage in Class III Gaming that is not expressly authorized in the Compact.

Authorized Gaming Facility: The Tribe may establish and operate not more than two gaming facilities and engage in Class III Gaming only on eligible Indian lands held in trust for the Tribe, located within the boundaries of the Jackson Rancheria as those boundaries exist as of the execution date of this Compact, as legally described in the Compact. If the Tribe chooses to operate more than one gaming facility, then one of the two gaming facilities shall have no more than three hundred (300) gaming devices and shall have a primary purpose other than gaming authorized under IGRA.

Exclusivity: Provides that in the event the exclusive right of Indian tribes to operate Class III gaming in California pursuant to the California Constitution is nullified by the enactment, amendment, or repeal of a state statute or constitutional provision or the conclusive and

dispositive judicial construction of a statute or the state Constitution by a California appellate court after the effective date of this Compact, that gaming devices may lawfully be operated by non-Indian entities, the Tribe shall have the right to: (i) terminate this Compact, in which case the Tribe will lose the right to operate Class III gaming authorized by this Compact or (ii) continue under this Compact with entitlement to a reduction of the rates specified below following conclusion of negotiations, to provide for (a) compensation to the State for the reasonable costs of regulation, as defined; (b) reasonable payments to local governments impacted by tribal government gaming; (c) grants for programs designed to address gambling addiction; and, (d) such assessments as may be permissible at such time under federal law.

Payments to the Special Distribution Fund (SDF): The Tribe shall pay to the State on a pro rata basis the costs the State incurs for the performance of all its duties under this Compact, as established by the monies appropriated in the annual Budget Act for the performance of their duties under the Class III Gaming Compacts each fiscal year for the California Gambling Control Commission (CGCC), the California Department of Justice, the Office of the Governor and the California Department of Alcohol and Drug Programs, Office of Problem Gambling, or any agency or agencies the State designates as a successor to them. The Tribe's pro rata share of the State's costs in any given year this Compact is in effect shall be calculated using the following equation: *"The maximum number of gaming devices operated in the gaming facility for the previous fiscal year as determined by the State Gaming Agency, divided by the maximum number of gaming devices operated by all federally recognized tribes in California pursuant to tribal-state Class-III gaming compacts during the previous fiscal year, multiplied by costs, equals the Tribe's pro rata share."*

Payments to the Revenue Sharing Trust Fund (RSTF) or Tribal Nation Grant Fund (TNGF): If the Tribe operates more than three hundred fifty (350) gaming devices at any time in a given calendar year, it shall thereafter, including in that calendar year, pay to CGCC, for deposit into the RSTF or the TNGF, eight percent (8%) of its Net Win from its operation of gaming devices in excess of three hundred fifty (350).

"Net Win" is defined as the drop from gaming devices, plus the redemption value of expired tickets, less fills, less payouts, less participation fees (e.g., payments made to gaming resource suppliers on a periodic basis by the gaming operation for the right to lease or otherwise offer for play gaming devices), less that portion of the gaming operation's payments to a third-party wide-area progressive jackpot system provider that is contributed only to the progressive jackpot amount.

Credits Applied to RSTF or the TNGF: The State agrees to provide the Tribe with an annual credit for up to forty percent (40%) of the payments otherwise due to be paid into the RSTF or TNGF for the following:

- 1) Payments by the Tribe to the County of Amador and local jurisdictions operating facilities or providing services within the County for purposes of improved fire, law enforcement, public transit, education, tourism, and other services and infrastructure improvements intended to serve off-reservation needs of County residents – such payments shall be subject to approval by the County or local jurisdiction in the County and at least twenty percent (20%) of the annual credits must be utilized for the above stated purposes;
- 2) Payments by the Tribe to reimburse Amador County for any loss of sales tax revenues to the County that would otherwise be due for retail sales at the Tribe’s gaming facility or transient occupancy tax at the Tribe’s hotel if it was not located on Indian lands. Such reimbursements shall be subject to approval by the County;
- 3) Payments to support operating expenses and capital improvements for non-tribal governmental agencies or facilities operating within Amador County;
- 4) Non-gaming related capital investments and economic development projects by the Tribe on tribal trust lands that the State or State designated agency agrees provides mutual benefits to the Tribe and the State because, for instance, they have particular cultural, social or environmental value, or diversify the sources of revenue for the Tribe’s general fund;
- 5) Investments in, and any funds paid to the State in connection with, renewable energy projects that, in part, serve the gaming facility, to include facilities that incorporate charging stations for electric or other zero-emission vehicles that are available to patrons and employees of the gaming facility; and,
- 6) Payments (not including direct or indirect state or federal funding) to support capital improvements and operating expenses for facilities within California that provide health care services to tribal members, Indians, and non-Indians.

All excess authorized credits that cannot be applied in any one year because they would exceed the forty percent (40%) may be applied as an annual credit in all following years that this Compact is in effect, in the same percentages, until completely exhausted.

Quarterly Contribution Report: At the time each quarterly payment is due, the Tribe shall submit to the State a report, prepared and certified by an authorized representative of the gaming operation. The report must include: (a) calculation of the maximum number of gaming devices operated each day, (b) the Net Win calculation, (c) the amount due the SDF, (d) calculation of the amount due to the RSTF/TNGF, and (e) the total amount of the quarterly payment.

Additional Compact Components

- Gaming Ordinance and Regulations – all gaming activities conducted under this Compact shall, at a minimum, comply with (1) a gaming ordinance duly adopted by the Tribe and

approved in accordance with IGRA, (2) all rules, regulations, procedures, specifications, and standards duly adopted by the National Indian Gaming Commission (NIGC), the Tribal Gaming Agency, and the State Gaming Agency, and (3) the provisions of this Compact, as specified.

- Licensing Requirements and Procedures – all persons in any way connected with the gaming operation or gaming facility who are required to be licensed or to submit to a background investigation under IGRA, and any others required to be licensed under this Compact, including, without limitation, all gaming employees, gaming resource suppliers, financial sources, and any other person having a significant influence over the gaming operation, must be licensed by the Tribal Gaming Agency and cannot have had any determination of suitability denied or revoked by the CGCC. Also, every gaming employee must obtain, and thereafter maintain current, a valid tribal gaming license, as specified.
- Environmental Protections – the Tribe must prepare a Tribal Environmental Impact Report (TEIR) and negotiate mitigation of any off-reservation impacts. The Tribe's failure to prepare an adequate TEIR when required shall be deemed a breach of this Compact and furthermore shall be grounds for issuance of an injunction or other appropriate equitable relief. A completed TEIR must be filed with the County, the City, the Department of Justice, the State Clearinghouse and the State Gaming Agency. Also, provides for binding arbitration if an intergovernmental agreement with the County is not entered into within 55 days of the submission of the final TEIR, or such further time as the Tribe or the County may mutually agree in writing. Any party may demand binding arbitration before a single arbitrator as set forth in the Compact.
- Employee Protections – the Tribe may create and maintain a system that provides redress for employee work-related injuries through requiring insurance or self-insurance, which system must include a scope of coverage, availability of an independent medical examination, right to notice, hearings before an independent tribunal, a means of enforcement against the employer, and benefits comparable to those mandated for comparable employees under state law. Not later than the effective date of this Compact, the Tribe will advise the State of its election to participate in the statutory workers' compensation system or, alternatively, will forward to the State all relevant ordinances that have been adopted and all other documents establishing the system and demonstrating that the system is fully operational and compliant with the comparability standard, as described. Independent contractors doing business with the Tribe must comply with all state workers' compensation laws and obligations.

The Tribe agrees that its gaming operation will participate in the State's program for providing unemployment compensation benefits and unemployment compensation

disability benefits with respect to employees employed at the gaming facility, as described. The Tribe has also agreed to adopt and comply with standards no less stringent than federal and state employment discrimination laws.

- Patron Protections (injuries and gambling) – the Tribe (through its tribal gaming agency) must attempt to resolve patron disputes within three days of the play or operation of any game, including refusal to pay to a patron any alleged winnings from any gaming activities. If the patron is dissatisfied with the resolution, the patron may request that the dispute be resolved either in the Tribe’s tribal court system or through binding arbitration before a single arbitrator, who shall be a retired judge, in accordance with the streamlined arbitration rules and procedures of JAMS (Judicial Arbitration and Mediation Services). Also, provides that the Tribe agrees to waive sovereign immunity in order to be compelled in federal or state court to abide by the resolution of arbitration. The Tribe has agreed to maintain commercial general liability insurance of no less than \$10 million per occurrence for bodily injury, property damage, and personal injury.
- Enhanced Audit and Compliance Review Procedures – in addition to providing for an annual independent audit, the Compact allows the state to conduct its own annual audit and compact compliance review.
- Minimum Internal Control Standards (MICS) – the Tribe must adopt and comply with standards that meet or exceed the federal NIGC standards. The MICS are incorporated in this Compact as an appendix (Appendix D), which shall be updated periodically by the State Gaming Agency and Tribal Gaming Agency, to ensure the MICS keep up with changing technology and industry standards.
- Inspection and Testing of Slot Machines – slot machines will have to be tested, approved and certified by an independent gaming test laboratory or state governmental gaming test laboratory to ensure they are being operated according to specified technical standards. Also, requires the Tribal Gaming Agency to maintain adequate records that demonstrate compliance with software and hardware specifications. The State Gaming Agency would be authorized to annually conduct up to four random inspections of slot machines in operation to confirm that the slot machines are operating in conformance with these standards.
- Compliance Enforcement – it is the responsibility of the Tribal Gaming Agency to conduct on-site gaming regulation and control in order to enforce the terms of this Compact, IGRA, any applicable NIGC and State Gaming Agency regulations, and the tribal gaming ordinance with respect to gaming operation and facility compliance, and to protect the integrity of the gaming activities, the reputation of the Tribe and the gaming operation for honesty and fairness, and the confidence of patrons that tribal government

gaming in California meets the highest standards of regulation and internal controls. To meet those responsibilities, the tribal gaming agency shall adopt and enforce regulations, procedures, and practices.

- Labor Provisions – the Tribe has agreed to continue its adoption of the Tribal Labor Relations Ordinance (TLRO), which governs the organizational and representational rights of the employees at the tribal casino and gaming facility and which is referenced as Appendix C of this Compact. In addition, the Tribe and Unite HERE, the hotel and casino workers union, have entered into a bilateral agreement in which the Tribe has agreed not to interfere in any organizational campaign to determine representation of the employees and Unite HERE has agreed not to engage in any negative economic activity, including strikes, at the Tribe’s gaming facilities. The TLRO provides for a secret ballot election.
- Problem Gambling – the gaming operation must establish a program, approved by the Tribal Gaming Agency, to mitigate pathological and problem gaming by implementing specified measures.
- Prohibitions Regarding Minors – the Tribe shall prohibit persons under the age of twenty-one (21) years from being present in any room or area in which gaming activities are being conducted unless the person is en route to a non-gaming area of the gaming facility, or is employed at the Gaming Facility in a capacity other than as a gaming employee.
- Alcohol Provisions – makes it explicit that the purchase, sale, and service of alcoholic beverages shall be subject to state law – the Alcoholic Beverage Control (ABC) Act.
- Tobacco Provisions – the Tribe agrees to provide a non-smoking area in the gaming facility and to utilize a ventilation system throughout the gaming facility that exhausts tobacco smoke to the extent reasonably feasible under state-of-the-art technology existing as of the date of the construction or significant renovation of the gaming facility, and further agrees not to offer or sell tobacco to anyone under 18 years of age.
- Protection of the Public – the Tribe will not conduct Class III Gaming in a manner that endangers the public health, safety, or welfare; provided that nothing herein shall be construed to make applicable to the Tribe any state laws or regulations governing the use of tobacco.
- Health and Safety Standards – the Tribe has agreed to adopt and comply with State public health standards for food and beverage handling and federal water quality and safe drinking standards applicable to California.

- Building Codes and Fire Safety – in order to assure the protection of the health and safety of all gaming facility patrons, guests, and employees, the Tribe shall adopt or has already adopted, and shall maintain throughout the term of this Compact, an ordinance that requires any covered gaming facility construction to meet or exceed the California Building Code and the Public Safety Code applicable to the county in which the gaming facility is located.
- Emergency Services Accessibility and Possession of Firearms – the Tribe must make reasonable provisions for adequate emergency fire, medical, and related relief and disaster services for patrons and employees. Also, prohibits the possession of firearms by any person in the gaming facility at all times except for federal, state, or local law enforcement personnel, or tribal law enforcement or security personnel, as authorized.
- Effective Date – the Compact shall not be effective unless and until all of the following have occurred: (a) The Compact is ratified by statute in accordance with state law and (b) Notice of approval or constructive approval is published in the Federal Register. Once effective, this Compact shall be in full force and effect for State law purposes for 20 years following the effective date. If this Compact does not take effect by September 17, 2017, it shall be deemed null and void unless the Tribe and the State agree in writing to extend the date.
- Amendments and Renegotiations – The terms and conditions of this Compact may be amended at any time by the mutual and written agreement of both parties during the term of this Compact provided that each party voluntarily consents to such negotiations in writing. No sooner than eighteen (18) months before the termination of this Compact, either party may request the other party to enter into negotiations to extend the term of this Compact or to enter into a new Class III compact.

ADDITIONAL BACKGROUND INFORMATION

Indian Gaming Regulatory Act (IGRA)

In 1988, Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a statutory basis for the operation and regulation of gaming on Indian lands. IGRA provides that an Indian tribe may conduct gaming activity on Indian lands if the activity “is not specifically prohibited by federal law and is conducted within a State which does not prohibit such gaming activity.”

IGRA distinguishes between three classes of gaming (Class I, Class II, and Class III) and provides for different forms of regulation for each class. Class I gaming includes “social games” for minor prizes or “traditional forms of Indian gaming.” Class II gaming is defined to include bingo and card games that are explicitly authorized by the laws of the state, or that are not

explicitly prohibited by the laws of the state and are played at any location in the State, so long as the card games are played in conformity with those laws and regulations. Class III gaming includes such things as slot machines, casino games and banked card games such as black jack and baccarat. Class III gaming may only be conducted under terms of a compact negotiated between an Indian tribe and a State.

IGRA was enacted against a legal background in which Indian tribes and individuals generally are exempt from state taxation within their own territory. IGRA provides that with the exception of assessments permitted under the statute, to defray the State's costs of regulating gaming activity, IGRA shall not be interpreted as conferring upon a State authority to impose any tax, fee, charge, or other assessment upon an Indian tribe to engage in Class III activity. Nor may a State refuse to enter into negotiations based on the lack of authority to impose such a tax, fee, charge, or other assessment.

When a tribe requests negotiations for a Class III compact, IGRA requires the State to negotiate with the Indian tribe in good faith. IGRA provides a comprehensive process to prevent an impasse in compact negotiations, which is triggered when a tribe files suit alleging that the State has refused to negotiate or has failed to negotiate in good faith.

Before 2000, The California Constitution prohibited Class III gaming. In 2000, California voters approved Proposition 1A which had been proposed by the Governor and passed by the Legislature. Proposition 1A amended the California Constitution to permit the State to negotiate compacts with federally recognized Indian tribes for certain Class III gaming activities. Because non-Indian parties were still forbidden from operating gaming facilities, Proposition 1A granted Indian tribes a "constitutionally protected monopoly on most types of Class III games in California."

Rincon Decision

The U.S. Supreme Court in July 2011 refused to consider the decision of the Ninth Circuit Court rejecting a Class III Tribal-State Gaming Compact negotiated by Governor Schwarzenegger with the Rincon Band of Luiseno Mission Indians. The issue of this case's impact on Indian gaming throughout the country has been a topic of great debate.

As noted, IGRA authorizes states to receive compensation for costs related to tribal gaming such as regulation and gaming addiction, and to offset the effects of casinos on surrounding communities. However, states are prohibited from assessing taxes on tribal casino revenues, so unjustified payments to a state's General Fund are no longer permissible unless the tribes are getting something in return for the required payments, such as those authorized by IGRA.

Another vehicle for state receipt of casino payments above those payments must be in exchange for some benefit deemed "exclusive" to the tribe. To this end, it is fact that a number of other

state (Governors) have attempted to create "exclusive grants" in favor of compact signatory tribes in return for payments to the state treasuries.

The Rincon Band challenged the legality of California's "second generation" compacts pursuant to which the signatory tribes would be entitled to increase their slot machine count in return for paying percentages of the new slot machine revenue to the state's General Fund. The Ninth Circuit had affirmed a lower court decision that the new financial concessions were nothing more than a state tax on tribal casino revenues which is prohibited by IGRA.

Rincon had refused to sign the amended compact which already had been executed by several other tribes choosing instead to demand that it be given the expanded gaming opportunity without making the new financial concessions. The Ninth Circuit Court concluded that a "non-negotiable, mandatory payment of 10% of net win into the State treasury for unrestricted use yields public revenue, and is [therefore] a tax, and that the court was therefore required to consider the State's demand as evidence of bad faith under IGRA's statutes."

The court noted that "the State could rebut the presumption of bad faith by demonstrating that the revenue demanded was to be used for the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing activities, but the State's need for general tax revenue was insufficient to demonstrate good faith."

Special Distribution Fund (SDF)

Existing law creates the SDF in the State Treasury for the receipt of revenue contributions made by tribal governments pursuant to the terms of the 1999 model Tribal-State Gaming Compacts and authorizes the Legislature to appropriate money from the SDF for the following purposes: (a) grants for programs designed to address gambling addiction; (b) grants for the support of state and local government agencies impacted by tribal government gaming; (c) compensation for regulatory costs incurred by the California Gambling Control Commission (CGCC) and the Department of Justice (DOJ) in connection with the implementation and administration of compacts; (d) payment of shortfalls that may occur in the Indian Gaming Revenue Sharing Trust Fund (RSTF); (e) disbursements for the purpose of implementing the terms of tribal labor relations ordinances promulgated in accordance with the terms of the 1999 compacts; and, (f) any other purpose specified by law. (Pursuant to compact renegotiations that took place with several of the larger gaming tribes during the Schwarzenegger administration, revenue from those tribes is directed into the state General Fund, instead of the SDF.)

The law establishes a method of calculating the distribution of appropriations from the SDF for grants to local government agencies impacted by tribal gaming. This method includes a requirement that the State Controller, in consultation with the CGCC, deposit funds into County Tribal Casino Accounts and Individual Tribal Casino Accounts based upon a process that takes

into consideration whether the county has tribes that pay, or not pay, into the SDF. The distribution formula "sunssets" on January 1, 2021.

Existing law also establishes an Indian Gaming Local Community Benefit Committee in each county in which gaming is conducted, specifies the composition and responsibilities of that committee, and requires that committee to make the selection of grants from the casino accounts. Among other things, the committee is responsible for establishing all application policies and procedures for grants from the casino accounts.

Additionally, existing law requires the State Auditor to conduct an audit every three years and report its findings to the Legislature regarding the allocation and use of SDF grant monies.

Revenue Sharing Trust Fund (RSTF)

Existing law also creates in the State Treasury the RSTF for the receipt and deposit of moneys derived from gaming device license fees that are paid into the RSTF pursuant to the terms of specified tribal-state gaming compacts for the purpose of making distributions to non-compact Tribes (e.g., federally-recognized non-gaming and tribes that operate casinos with fewer than 350 slot machines). Revenue in the RSTF is available to CGCC, upon appropriation by the Legislature, for making distributions of \$1.1 million annually to non-compact tribes. The RSTF was created as part of the 1999 compacts, which, in conjunction with the passage of Proposition 1A, created gaming compacts with approximately 60 California tribes. Non-compact tribes are considered third-party beneficiaries of the 1999 compacts.

Tribal Nation Grant Fund (TNGF)

This particular fund was created to complement the RSTF and provides for the distribution of funds to non-gaming tribes, upon application of such tribes for purposes related to effective self-governance, self-determined community, and economic development. The designated purpose of the RSTF is rigid and formulaic. This new fund is designed to be fluid and payments are intended to be made to non-gaming tribes on a "need" basis, upon application by non-gaming tribes.

PRIOR LEGISLATION

SB 1356 (De León), Chapter 314, Statutes of 2014. Ratified the amendment to the tribal-state gaming compact entered into between the State of California and the Viejas Band of Kumeyaay Indians, executed on August 12, 2014.

SB 1224 (Correa), Chapter 300, Statutes of 2014. Ratified the tribal-state gaming compact entered into between the State of California and the Karuk Tribe, executed on December 4, 2013.

AB 1245 (V. Manuel Perez), Chapter 462, Statutes of 2013. Ratified the tribal-state gaming compact entered into between the State of California and the Ramona Band of Cahuilla Indians located in Riverside County, executed on June 10, 2013.

AB 277 (Hall), Chapter 277, Statutes of 2013. Ratified two new compacts entered into between the State of California and the following tribes: North Fork Rancheria, executed on August 31, 2012 and the Wiyot Tribe, executed on March 20, 2013.

AB 1267 (Hall), Chapter 6, Statutes of 2013. Ratified the amended tribal-state gaming compact entered into between the State of California and the Shingle Springs Band of Miwok Indians, executed on November 15, 2012.

SB 668 (Fuller), Chapter 67, Statutes of 2013. Ratified the tribal-state gaming compact entered into between the State of California and the Fort Independence Indian Community of Paiute Indians, executed on February 28, 2013.

AB 517 (Hall), Chapter 12, Statutes of 2012. Ratified the tribal-state gaming compact entered into between the State of California and the Federated Indians of Graton Rancheria of Sonoma County, executed on March 27, 2012.

AB 787 (Chesbro), Chapter 340, Statutes of 2012. Ratified the amendment to the tribal-state gaming compact entered into between the State of California and the Coyote Valley Band of Pomo Indians, executed on July 25, 2012.

AB 1418 (Hall), Chapter 412, Statutes of 2011. Repealed those provisions ratifying the tribal-state gaming compact entered into between the State of California and Pinoleville Pomo Nation, executed on March 9, 2009 and instead ratified the tribal-state gaming compact entered into between the State of California and the Pinoleville Pomo Nation, executed on August 8, 2011. Ratification of this revised compact authorized the Tribe to operate up to 900 slot machines with up to 15% of the casino's net win from the slots will go to local communities and gambling mitigation and regulation provisions, instead of requiring revenue contributions be made to the General Fund as provided by the 2009 compact.

AB 1020 (Chesbro), Chapter 27, Statutes of 2011. Repealed the ratification of the tribal-state gaming compact entered into between the State of California and the Habematolel Pomo of Upper Lake, executed on September 2, 2009, and instead ratified a new tribal-state gaming compact entered into between the State of California and the Habematolel Pomo of Upper Lake, executed on March 17, 2011. Ratification of this revised compact authorized the Tribe to operate up to 750 slot machines with up to 15 percent of the net-win from those gaming devices being paid to the SDF and the RSTF, instead of requiring revenue contributions be made to the General Fund as provided by the 2009 compact.

SB 89 (Budget Committee), Chapter 1, Statutes of 2010. Ratified the tribal-state gaming compact entered into between the State of California and the Habematolel Pomo of Upper Lake, executed on September 2, 2009.

AB 122 (Coto), Chapter 3, Statutes of 2009. Ratified the tribal-state gaming compact entered into between the State of California and the Pinoleville Pomo Nation, executed on March 10, 2009.

AB 3072 (Price), Chapter 334, Statutes of 2008. Ratified the first amendment to a tribal-state gaming compact entered into between the State of California and the Shingle Springs Band of Miwok Indians, executed on June 30, 2008.

SB 106 (Wiggins), Chapter 37, Statutes of 2007. Ratified a new compact between the State of California and the Yurok Tribe of the Yurok Reservation (Yurok).

SB 174 (Ducheny), Chapter 39, Statutes of 2007. Ratified the first compact amendment to the compact between the State of California and Sycuan.

SB 175 (Ducheny), Chapter 38, Statutes of 2007. Ratified the first compact amendment to the compact between the State of California and Morongo.

SB 903 (Padilla), Chapter 40, Statutes of 2007. Ratified the first compact amendment to the compact between the State of California and Pechanga.

SB 941 (Padilla), Chapter 226, Statutes of 2007. Ratified the first compact amendment to the compact between the State of California and San Manuel.

SB 957 (Torlakson), Chapter 41, Statutes of 2007. Ratified the first compact amendment to the compact between the State of California and Agua Caliente.

SB 470 (Ducheny), Chapter 527, Statutes of 2006. Ratified the first amendment to the compact between the State and the Quechan Tribe of the Fort Yuma Reservation (Quechan).

SB 1117 (Burton), Chapter 856, Statutes of 2004. Ratified two new and two amended compacts entered into between the State and the following tribes: Coyote Valley Band of Pomo Indians (new compact); Fort Mojave Indian Tribe (new compact); Buena Vista Rancheria of Me-Wuk Indians (amended compact); and, Ewiiapaayp Band of Kumeyaay Indians (amended compact).

AB 687 (Nuñez), Chapter 91, Statutes of 2004. Ratified amendments to five compacts entered into between the State and the following tribes: Pala Band of Mission Indians; Pauma Band of Luiseno Mission Indians of the Pauma and Yuima Reservation; Rumsey Band of Wintun Indians; United Auburn Indian Communities; and, Viejas Group of Kumeyaay Indians. Also, provided for the issuance of bonds in an amount not to exceed \$1.5 billion by the California

Infrastructure and Economic Development Bank and required the net proceeds of the sale of the compact assets to be deposited in the Traffic Congestion Relief Fund and the Transportation Deferred Investment Fund.

SB 930 (Burton), Chapter 802, Statutes of 2003. Ratified a compact between the State of California and the Torres-Martinez Desert Cahuilla Indians.

SB 411 (Ducheny), Chapter 790, Statutes of 2003. Ratified compacts between the State of California and the La Posta Band of Diegueno Mission Indians and the Santa Ysabel Band of Diegueno Mission Indians in San Diego County.

Proposition 1A. Adopted by the People of California on March 7, 2000. Modified the prohibition against casinos and lotteries in the California Constitution to authorize the Governor to negotiate compacts, subject to legislative ratification, for the operation of slot machines, lottery games, and banking and percentage card games by federally recognized Indian tribes on Indian lands in California, in accordance with federal law. Authorized slot machines, lottery games, and banking and percentage card games to be conducted and operated on Indian lands subject to the compacts.

AB 1385 (Battin), Chapter 874, Statutes of 1999. Designated the Governor as the state officer responsible for negotiating and executing compacts between the state and federally recognized Indian tribes located in the state. Also, ratified 57 compacts and created two special funds in the State Treasury (SDF and RSTF), as specified.

Proposition 5, adopted by the People of California on November 3, 1998. Specified the terms and conditions of mandatory compacts between the State and tribal governments for class III gambling on Indian lands. Amended California law to allow slot machines and banked card games at tribal casinos. Provided for contributions to trust funds benefiting non-gaming tribes, statewide emergency medical care programs, and programs benefiting communities near tribes. Allowed tribes to retain a monopoly on authorized gambling. Proposition 5 was found to be unconstitutional because it amended a provision of the Government Code and did not amend the Constitution. The proposition was invalidated in its entirety, save the final sentence of Government Code Section 98005, containing the state's consent to federal suits brought by California tribes pursuant to IGRA.

SB 287 (Burton), Chapter 409, Statutes of 1998. Ratified 11 compacts negotiated between the State of California and Indian tribes that permitted class III video gaming devices on tribal lands and established a process for ratifying other compacts.

SB 8 (Lockyer), Chapter 867, Statutes of 1997. Repealed the Gaming Regulation Act and enacted the Gambling Control Act of 1997. Established CGCC and charged it with, among other things, the authority to issue, deny, revoke, suspend, or impose conditions, restrictions, or

limitations on licenses, permits, or approvals to ensure that unsuitable or unqualified persons are not involved in the operation of gambling. Established the Bureau of Gambling Control (formerly known as the Division of Gambling Control) within the Department of Justice and charged it with specified investigative and enforcement duties.