

Senate Committee on Governmental Organization
Informational Hearing
Amendment to the Tribal-State Gaming Compact Between the State of California and
Santa Ynez Band of Mission Indians
August 22, 2018 – 9:00 a.m.
Room 112, State Capitol

Amended Compact Overview

SUMMARY

The Amendment to the Tribal-State Gaming Compact (hereafter “Amended Compact”) between the State of California and the Santa Ynez Band of Mission Indians (hereafter “Tribe”) was executed on August 1, 2018. The Amended Compact allows the Tribe to operate an off-track horseracing wagering facility and clarifies that nothing in any other tribal compact should be a factor in construing the terms of this Amended Compact. These changes are consistent with recent compacts.

In 2015, the Tribe entered into a new tribal-state compact [ratified by AB 1540 (Gray, Chapter 531, Statutes of 2015)] that authorized the Tribe to operate up to 2,500 slot machines at no more than two gaming facilities located on eligible Indian lands held in trust for the Tribe, and located within the boundaries of the Tribe’s Reservation.

Under the 2015 Compact, the Tribe 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 6% 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 provided a framework for the sharing of gaming revenue with the County of Santa Barbara and other local jurisdictions.

Currently, the Tribe operates the Chumash Casino Resort. The Casino has approximately 2,000 slot machines, offers over 50 table games, restaurants, a 1,400 seat entertainment venue, and a 320-room hotel and spa. In 2014, the Tribe broke ground on a casino expansion development project. This expansion project was completed in May of 2016 and included the addition of a 12-story hotel tower, a 20,000 square foot gaming floor expansion, and a six-story parking structure.

The vehicle identified for providing the constitutionally required legislative ratification of this Compact is AB 3262 (Gray).

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 – Santa Ynez Band of Mission Indians

The Santa Ynez Band of Chumash Indians is the only federally-recognized Chumash tribe in the nation. The Santa Ynez Reservation is located in Santa Barbara County, and was established on December 27, 1901.

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. In

2015, the Tribe entered into a new Compact which allowed it to operate up to 2,500 slot machines.

For many years, few tribal members lived on the Reservation. A housing program was established in 1979 which increased the number of tribal members living on both the lower and upper Reservation. Additionally, revenue generated from the Tribe's Chumash Casino Resort has encouraged members to live on the Reservation. Today there are approximately 249 residents and 97 homes on the Santa Ynez Reservation, and others live in homes in the surrounding communities.

The Chumash people once numbered in the tens of thousands and lived along the southern coast of California. At one time, Chumash territory encompassed 7,000 square miles that spanned from the beaches of Malibu to Paso Robles. The people of Santa Ynez spoke a version of Chumash language called Samala, also known as Inseño.

The Tribe is governed by a general council composed of all tribal members age 21 and older, and a Tribal Business Council of five members, elected every two years. The council includes a chairperson, a vice-chairperson, and a secretary-treasurer. Tribal government services include the Santa Ynez Tribal Health Clinic, the Chumash Fire Department, the Santa Ynez Chumash Environmental Office, and an education department.

The Tribe's current casino operation, known as the Chumash Casino Resort, has approximately 2,000 slot machines, offers over 50 table games, restaurants, a 1,400 seat entertainment venue, and a 320-room hotel and spa. In 2014, the Tribe broke ground on a casino expansion development project. This expansion project was completed in May of 2016 and included the addition of a 12-story hotel tower, a 20,000 square foot gaming floor expansion, and a six-story parking structure.

In addition, the Tribe has a diversified business portfolio – it owns or has ownership interests in a variety of businesses both on and off of the Santa Ynez Reservation including three hotels nearby in Solvang; an office building in Buellton, which houses various tribal business functions; and, a federally qualified health clinic.

The Tribe reports that today, through decades of hard work, tribal families have increased opportunities for education, better health care, and access to cultural offerings that respect and build upon their past. Additionally, the Tribe states that it is dedicated to being good neighbors, and states that it has donated more than \$20 million to more than 700 nonprofit organizations.

Details of the Amended Compact

Satellite Wagering Facility - allows the tribe to provide off-track wagering on horse races at a satellite wagering facility. The Tribe is required to follow the same regulations as other satellite wagering facilities in the state as prescribed by the California Horse Racing Board.

Construction - to other compacts, this Amended Compact specifies that neither the presence nor omission in another tribal-state Class III Gaming of language that is present in this Amended Compact shall be a factor in construing the terms of this Amended Compact.

ADDITIONAL BACKGROUND INFORMATION

Indian Gaming Regulatory Act

In 1988, Congress enacted 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.”

Special Distribution Fund

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 CGCC and DOJ in connection with the implementation and administration of compacts; (d) payment of shortfalls that may occur in the 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.)

Current 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 do not pay, into the SDF.

Revenue Sharing Trust Fund

Existing law 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-compacted California tribes (e.g., federally-recognized non-gaming tribes 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

This particular fund, established in the 2012 Graton Compact, 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. Payments from this fund are intended to be made to non-gaming tribes on a “need” basis, upon application.

SUPPORT

None received

OPPOSITION

None received

PRIOR AND CURRENT LEGISLATION

AB 1433 (Wood, Chapter 11, Statutes of 2018) ratified the tribal-state gaming compact entered into between the State of California and the Elk Valley, Rancheria, executed on August 31, 2017.

SB 6 (Hueso, Chapter 455, Statutes of 2017) ratified the tribal-state gaming compact entered into between the State of California and the Quechan Tribe of the Fort Yuma Indian Reservation, executed on August 31, 2017.

SB 585 (McGuire and Mendoza, Chapter 464, Statutes of 2017) ratified the tribal-state gaming compact entered into between the State of California and the Dry Creek Rancheria Band of Pomo Indians, executed on August 18, 2017.

SB 626 (Dodd, Chapter 465, Statutes of 2017) ratified the amendment to the tribal-state gaming compact entered into between the State of California and the Federated Indians of Graton Rancheria, executed on August 18, 2017.

AB 174 (Bigelow, Chapter 435, Statutes of 2017) ratified the tribal-state gaming compact entered into between the State of California and the United Auburn Indian Community, executed on August 18, 2017.

AB 253 (Bigelow, Chapter 437, Statutes of 2017) ratified the tribal-state gaming compact entered into between the State of California and the Tuolumne Band of Me-Wuk Indians, executed on August 18, 2017.

AB 394 (Mathis, Chapter 440, Statutes of 2017) ratified the tribal-state gaming compact entered into between the State of California and the Tule River Indian Tribe of California, executed on August 31, 2017.

AB 891 (Mayes, Chapter 447, Statutes 2017) ratified the tribal-state gaming compact entered into between the State of California and the Morongo Band of Mission Indians executed on September 6, 2017.

AB 1378 (Gray, Chapter 450, Statutes of 2017) ratified the amendment to the tribal-state gaming compact entered into between the State of California and the San Manuel Band of Mission Indians executed on August 18, 2017.

AB 1606 (Cooper, Chapter 453, Statutes of 2017) ratified the tribal-state gaming compact entered into between the State of California and the Wilton Rancheria, executed on July 19, 2017.

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.