

Indian Gaming News: Policy

CSAC Policy on Tribal Lands

Adopted by the CSAC Board of Directors on February 23, 2006.

Congress continues to show an interest in the land-into-trust process and revisiting portions of the Indian Gaming Regulatory Act (IGRA) in 2006, with hearings expected for Senator Feinstein's S. 113, Congressman Pombo's draft legislation to address "reservation shopping" and Senator McCain's newly introduced S. 2078. To give insight into its position on these and future bills relating to the tribal lands into trust process, CSAC, through its Indian Gaming Working Group, wishes to reiterate those policy principles sponsored or adopted by CSAC over the past four years that directly relate to the purposes of the legislative proposals mentioned above.

The overriding principle supported by CSAC is that when tribes are permitted to engage in gaming activities under federal legislation, then judicially enforceable agreements between counties and tribal governments must be required in the legislation. These agreements would fully mitigate local impacts from a tribal government's business activities and fully identify the governmental services to be provided by the county to that tribe.

The bold language set forth below presents the applicable principle and the italicized language applies that principle to the legislation as currently proposed.

1. Nothing in federal law should interfere with provision of public health, safety, welfare or environmental services by local governments, particularly counties. (June 2004 NACo Policy sponsored in part by CSAC). Consistent with this policy, CSAC is supportive of all federal legislation that gives counties an effective voice in the decision-making process for taking lands into trust for a tribe and furthers the overriding principle discussed above.
2. CSAC supports federal legislation to provide that lands are not to be placed into trust and removed from the land use jurisdiction of local governments without the consent of the State and the affected county. (CSAC November 2004 Policy). Federal legislation is deserving of CSAC's support if that legislation requires counties' consent to the taking of land into trust for a tribe.
3. CSAC opposes the practice commonly referred to as "reservation shopping" where a tribe seeks to place land into trust outside its aboriginal territory over the objection of the affected county. (CSAC November 2004 Policy). CSAC will support federal legislation that addresses "reservation shopping" or consolidations in a manner that is consistent with existing CSAC policies, particularly the requirements of consent from Governors and local governments and the creation of judicially enforceable local agreements.
4. CSAC does not oppose the use by a tribe of non-tribal land for development provided the tribe fully complies with state and local government laws and regulations applicable to all other development, including full compliance with environmental laws, health and safety laws, and mitigation of all impacts of that development on the affected county. (CSAC November 2004 Policy). CSAC can support federal legislation that furthers the ability of counties to require and enforce compliance with all environmental, health and safety laws. Counties and tribes need to negotiate in good faith over what mitigation is necessary to reduce all off-Reservation impacts from an Indian gaming establishment to a less than significant level and to protect the health and safety of all of a county's residents and visitors.

5. CSAC supports the position that all class II and class III gaming devices should be subject to IGRA. CSAC is concerned about the current definition of Class II, or bingo-style, video gaming machines as non-casino gaming machines. These machines are nearly indistinguishable from Class III, slot-style gaming machines, and thereby generate the same type of impacts on communities and local governments associated with Class III gaming. CSAC believes that the operation of Class II gaming machines is in essence a form of gaming, and tribes that install and profit from such machines should be required to work with local governments to mitigate all impacts caused by such businesses.