

Stand Up For California!

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April 12, 2002

Stephen M. Hardy
Senate Committee on G.O.
State Capitol Room 2193
Sacramento, CA. 95814

RE: Opposition to Senate Bill 1549

Dear Mr. Hardy:

Please list Stand Up For California in opposition to Senate Bill 1549 authored by Senator Battin as it is currently drafted. SB 1549 The Indian gaming: improvements: funding bill does not appropriately address the financial needs of communities of non-Indian citizens, representatives of local government or state agencies such as law enforcement, fire, or regional water boards.

The spirit in which the compact established the second trust fund was intended to provide relief for the support of state and local government agencies impacted by tribal government gaming. Moreover the fund was only intended to **“supplement the costs”** of the impacts, it did not remove the obligation of tribal governments to responsibly and accountably with a **“degree of effort”** mitigate their fair share of the impacts created by their casino developments.

The commission should include a county board of supervisor selected by the California State Association of Counties. Further it is only fair and just that 75% off the top of this fund be set aside for disbursement to local jurisdictions where casinos are sited to mitigate the impacts of these facilities. The next 10% of the special distribution fund should be set aside for a “legal defense fund” for citizens and communities who are experiencing direct harm due to the nature of tribal sovereignty and the lack of enforcement measures in the tribal state compact. 10% of this fund must go to the California Gambling Control Commission to supplement their inadequate budget and the remaining 5% for the study of and implementation of actions to address the social ills that problem and compulsive gambling engenders.

The compact Special Distribution Fund is funded with a **finite amount of money**. This fund will continue to shrivel in size not get larger with the increased number of tribal state compacts or slot machines. Section 5.1 (a) of the tribal state compact states:

The tribe shall make contributions to the Special Distribution Fund created by the legislature, in accordance with the following schedule, but only with respect to the number of Gaming Devices operated by the Tribe on September 1, 1999. [Emphasis added]

This total was approximately 19,400 gaming devices. The number changed several times, it was a number volunteered by the gaming tribes, and no hard or physical count was completed. All tribes get an immediate 200 machines off of their total to calculate Percent of Average Gaming Device Net Win. (As outlined in the graph under sections 5.1 (a) of the tribal state compact) Consider, as the total number of slot machines increases in the State, the average device net win will decrease due to all machines not being played equally. As the newly and rapidly developing industry of tribal gaming continues to expand, the number of gaming tribes, number of slot machines will increase leaving California with a diminishing amount of money as the impacts that need supplemental funding continue to grow and proliferate.

Senator Battin's bill further states:

(1) In deference to tribal sovereignty, neither the executive tribal state gaming compact nor the on reservation impacts compliance with the terms of a tribal state gaming compact deemed to constitute a project for purposes of the California Environmental Quality Act. (Division 13 (commencing with Sec. 21000 of the Public Resources Code)). [Emphasis added]

The Governor is the designated state officer responsible for negotiating and executing on behalf of the state, tribal gaming compacts with federally recognized Indian governments. The addition of the above legislative language does not comply with the rules of negotiation of a tribal state compact. This is undeniably an effort by federally recognized tribes to promote special interest legislation to further cloud the issues and avoid implementing environmental safeguards and protections. Sections 2.8 of the tribal state compact clearly and indisputably defines a "project", and section 10.8.2 requires tribal gaming governments to implement a California Environmental Quality Act "like ordinance" and mitigate the environmental and developmental impacts affecting a community.

The notion that California or any state in the Union should "in deference to tribal sovereignty" waive their right to foster public policies that protect the health and safety of their citizens, provide for the democratic operations of local governments or the economic soundness of the state economy is contrary to the purposes of the Indian Gaming Regulatory Act and detrimental to "states rights". The Indian Gaming Regulatory Act was intended to foster public policy climate formalized by the development of a tribal state compact whereby individual states would set up an independent framework for the form, extent, scope and intensity of class III gaming. Thus allowing states to shelter their citizens from the broad consequences of federal Indian policy, which promote political, cultural and economic hardships.

The Governor and the Legislature owe the rest of California the commitment to address the severe problems created by the introduction of gambling enterprises outside the jurisdictional reach of state and local governments.

Sincerely

Cheryl Schmit, Director
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