

AMENDMENTS TO ASSEMBLY CONCURRENT RESOLUTION NO. 56
AS AMENDED IN ASSEMBLY APRIL 20, 2009

Amendment 1

Strike out lines 2 to 15, inclusive, of the heading

Amendment 2

In lines 1 and 2 of the title, strike out "Earth Week 2009" and insert:

tribal gaming compact ratification

Amendment 3

On page 2, before line 1, insert:

WHEREAS, The federal Indian Gaming Regulatory Act of 1988 (IGRA) authorizes federally recognized Indian tribes to conduct class III gaming on Indian lands within the tribe's jurisdiction, to the extent those games are permitted by state law, and pursuant to a gaming compact negotiated between a tribe and the state; and

WHEREAS, IGRA requires the state to negotiate in good faith for the conclusion of tribal-state gaming compacts with Indian tribes that request negotiations when those tribes have eligible Indian lands located in the state; and

WHEREAS, In 1998, California voters approved Proposition 5, a statutory measure designed to allow for the operation of slot machine and house-banked card gaming by California Indian tribes on Indian lands in accordance with federal law, and in 1999, the California Supreme Court held that most of the provisions enacted by Proposition 5 were unconstitutional; and

WHEREAS, In 2000, California voters approved Proposition 1A, amending the California Constitution to authorize the Governor to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines, and for the conduct of lottery games and banked and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law; and

WHEREAS, During the campaigns to approve Propositions 5 and 1A, proponents assured California voters that Indian lands were mainly in remote, rural areas of the state and that approval of these measures would not result in tribal casinos being located in urban areas; and

WHEREAS, In the general election of 2004, two initiative measures, Propositions 68 and 70, that would have expanded gaming activities in urban areas were placed before the California voters; and

WHEREAS, Proposition 68 was defeated with 83.8 percent of the electorate voting against it and Proposition 70 was defeated with 76.3 percent of the electorate voting against it; and



WHEREAS, There is increasing public concern over the location, expansion, and impact of tribal gaming on nontribal lands in California; and

WHEREAS, There are over 100 federally recognized Indian tribes in California and many of those tribes have Indian lands within the tribe's jurisdiction that are eligible for class III gaming; and

WHEREAS, Subdivision (d) of Section 12012.25 of the Government Code designates the Governor as the state official with authority to negotiate and execute tribal gaming compacts on behalf of the state; and

WHEREAS, Subdivisions (c) and (e) of Section 12012.25 of the Government Code provide that tribal-state gaming compacts negotiated by the Governor are subject to ratification by the Legislature; and

WHEREAS, An increasing number of Indian tribes are seeking to put new land into trust for purposes of conducting class III gaming activities pursuant to the provisions of IGRA, often in urban areas; and

WHEREAS, In May 2005, Governor Arnold Schwarzenegger issued a proclamation that he would (1) oppose proposals for the federal acquisition of lands within any urbanized area where the lands sought to be acquired in trust are to be used to conduct or facilitate gaming activities; (2) decline to engage in negotiations for tribal-state gaming compacts where the Indian tribe does not have Indian lands eligible for class III gaming; (3) consider requests for gubernatorial concurrence to allow a tribe to conduct class III gaming on newly acquired land only when (A) the land that is sought for class III gaming is not within any urbanized area, (B) the local jurisdiction in which the tribe's proposed gaming project is located supports the project, (C) the tribe and the local jurisdiction demonstrate that the affected local community supports the project, such as by a local advisory vote, and (D) the project substantially serves a clear, independent public policy, separate and apart from any increased economic benefit or financial contribution to the state, community, or the Indian tribe that may arise from gaming; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That, with respect to Indian gaming proposals to conduct class III gaming, the Legislature calls upon the Governor to refrain from negotiating a tribal-state gaming compact until the land on which such gaming will occur has been taken into trust for the tribe, the tribe has jurisdiction over the land, and the local jurisdiction and the local community in which the tribe's proposed gaming project would be located actually support the project; and be it further

Resolved, That the presence or absence of local support be demonstrated through both (1) an advisory vote in the county or counties in which the tribe's Indian lands are located, either approving or disapproving a proposed gaming facility; and (2) one or more intergovernmental agreements that are enforceable in state court, that include provisions to mitigate the impacts of the proposed gaming and related activities, executed by the Indian tribe and the following: (A) the incorporated city or city and county in which the Indian lands are located, or, if the land is not located within an incorporated city or city and county, the county or counties in which the land is located; and (B) each county that is contiguous to the county in which the land is located and that is likely to be substantially impacted by the proposed gaming and related activities, as reasonably determined by the board of supervisors of the county and set forth in a measure specifying the nature of anticipated impacts, which impacts shall be no more

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than 75 miles from the proposed gaming facility, and the estimated costs of mitigation; and be it further

Resolved, That in the absence of local support as described herein, the Legislature will not ratify a compact that allows Indian gaming on non-Indian lands or on Indian lands not under the jurisdiction of the tribe; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the author for appropriate distribution.

Amendment 4

On page 2, strike out lines 1 to 40, inclusive, and strike out page 3