

The Sacramento Bee

Article Date:

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Not folding yet

New gambling measures likely headed for the ballot

The state Supreme Court's decision Monday to invalidate Proposition 5, last November's Indian gambling initiative, was widely anticipated. Because it was "purely a statutory measure," the justices ruled, it could not overcome the state constitution's prohibition against casino gambling.

As welcome as it is, the court's decision does not end the controversy. Slot machines continue to operate illegally in Indian casinos across the state. The federal government refuses, for now, to enforce the law and shut them down.

In addition, the most aggressive of the gambling tribes are circulating a new initiative, this one a constitutional amendment they claim will overcome the Supreme Court's objections.

For those who want to limit gambling in California, the most hopeful developments this week came in the Legislature. Minutes after the high court overturned Proposition 5, a Senate constitutional amendment, SCA 11, was introduced and passed off the Senate floor unanimously. Authored by Senate President Pro Tem John Burton, SCA 11 is an empty shell now, but it is expected to be filled in with the broad outlines of a model Indian gambling compact for the state before the Legislature adjourns next month.

Because it exploits the weakest and poorest among us, gambling is not an enterprise California should endorse or encourage. Nonetheless, the federal government has essentially pre-empted the state. Congress has already said Indians may offer gambling on their lands. Given that, SCA 11 is perhaps the

best opportunity California has to limit the scope and also protect the interests of labor, local government, the environment, public safety and health — and of non-Indians who reside near reservations where gambling is offered.

If SCA 11 makes the March ballot, as anticipated, it will probably compete with the new Indian gambling initiative already in circulation. Astute observers say the new initiative — being pushed by the tribes and the same army of consultants who made a bundle off Proposition 5 — won't survive a constitutional challenge. Here's why:

When Congress approved the Indian Gaming Regulatory Act, it required state governors to negotiate compacts with gambling tribes. To compel a governor to simply sign a compact drawn up by Indian casino operators — as Proposition 5 did and the planned new initiative proposes — would be a violation of the state and federal constitutional principle of separation of powers. Moreover, critics argue, a compact is not a valid subject for an initiative.

Gambling is bad for California. The state's economy is better built on the likes of agriculture, high-tech and entertainment than on slot machines and bingo. Still, if gambling must be allowed on Indian lands, an agreement negotiated by the governor and the Legislature that limits the scope of gambling as much as possible and that considers the interests of the wider public is clearly preferable to an initiative pushed by gambling tribes and their greedy consultants.

Los Angeles Times

Article Date:

Dealt Setback, Indian Casinos Look for Help

■ **Gambling:** Ballot initiative, legislative measure could offer tribes relief from state justices' decision banning slot-like machines.

By TOM GORMAN
and CARL INGRAM
TIMES STAFF WRITERS

California's Indian gaming tribes looked to Sacramento on Tuesday for support in resolving a years-long battle: how to operate casinos with lucrative gaming machines that the state Supreme Court has now ruled are banned by the state Constitution.

Even as Justice Department officials in Washington contemplated whether, and when, to shut down the machines that the court ruled Monday are illegal slots, state legislators moved quickly to reserve a spot on the March ballot for a possible constitutional amendment to legalize slot machines on Indian reservations across the state.

Prior to the court's ruling striking down Proposition 5—last year's popu-

NEWS ANALYSIS

lar Indian gaming initiative—tribes had already launched a signature-gathering campaign to place an amendment on the ballot next March to exempt their casinos from the state's slot machine ban.

Hours after the court's ruling was announced, state Senate President Pro Tem John Burton (D-San Francisco) moved to reserve a place on the ballot for a proposed constitutional amendment, which he said could be put before the voters as a possible alternative to the Indian tribes' pending initiative.

At this point, the measure is merely a place-holder for the March ballot and contains no substantive provisions. Those will be inserted later, if a compromise can be reached, Burton said.

He indicated that he has no specifics in mind, insisting that "I'm open to anything."

Such a measure faces significant hurdles, chief among them whether a compromise can be struck that would satisfy Gov. Gray Davis, the Legislature and Indian gambling operators. Other players to be reckoned with include Nevada casinos and other interests

that oppose any expansion of gambling in California, as well as operators of California racetracks and card clubs who would like permission, along with the tribes, to operate slot machines.

In the meantime, the tribes are hoping to earn enough signatures by Labor Day to qualify their own March ballot measure.

The clock, meanwhile, is ticking on eight Inland Empire tribes and another near Santa Barbara that previously were ordered by a federal judge to shut down their slot machines within 45 days of a state Supreme Court decision voiding Proposition 5.

That occurred Monday, when the state's high court ruled 6-1 that the video gambling devices were, in fact, slot machines—placing Indian casinos on the same level as Nevada-style casinos, which are banned in California under the same 1984 state constitutional referendum that authorized California's lottery.

Under Proposition 5, approved by 63% of state voters, Indians sought approval to conduct the kind of casino gambling they have offered in California for years without state or federal approval.

But because the measure did not seek to amend the constitutional ban on slot machines, it carried insufficient legal weight, the Supreme Court decided.

At issue for years was whether the video devices are slot machines. Because jackpots were paid from the casino's bank versus the players' pool of wagers, the Supreme Court ruled that they were indeed slots.

With Proposition 5 invalidated, tribes and state officials must now identify the types of machines that are to be considered legal machines in California.

"We can't use [these] machines," Anthony Pico, chairman of the Viejas Indians east of San Diego, said Tuesday. "Now that that question has been answered," the discussion about what kind of machine to use "is the most important issue on the table."

There are possible solutions—ones that most tribes have resisted, at least until now.

Last year, a Nevada company created video gaming devices that look and sound similar to a slot machine but which are designed to operate as legal, high-speed lottery games.

About 100 of the devices are now in use at four tribal casinos in the state, "and they are performing admirably," said attorney Howard Dickstein, who represents tribes that use them. "They are as popular, or more popular, than the other devices."

The high-speed lottery machines were authorized last year for 11 tribes that signed agreements with then-Gov. Pete Wil-

son to operate casinos. Most tribes, however, said they feared the machines would not be as popular among gamblers as the kinds of slots in use elsewhere.

Another option is for the tribes to change the hardware and software of their existing slot machines.

The gaming tribes' ultimate hope is that, either through their own proposed ballot measure or through a legislative one, voters in March can again endorse Indian gaming—this time by changing the state Constitution to specifically exempt tribes from the

slot-machine ban.

In the meantime, the devices are operating illegally in California and the immediate question is, how long will that be tolerated?

That call is up to the four U.S. attorneys in California. Two have already spoken.

In the central district that includes Los Angeles and the Inland Empire, prosecutors went to court last year and won a ruling that the tribes' machines were illegal. A federal judge authorized federal agents to shut them down. His ruling was stayed with the understanding that if the state Supreme Court also found them illegal, the nine tribes would have 45 days to shut them off.

A spokesman for U.S. Atty. Alejandro Mayorkas in Los Angeles said Tuesday he assumed that the tribes would live by their previous agreement and turn off the offending devices by the deadline. He said he would not speculate what his office would do if the tribes failed to abide by the standing court order.

Richard Milanovich, chairman of the Agua Caliente Indians in Palm Springs, said he still hopes for a compromise. "I'm an optimist," he said.

The three tribes with casinos in San Diego County are breathing easier. While they opposed the casino agreements forged by Wilson last year, they nonetheless signed them so their casino machines would not be seized, as a federal judge there had threatened to do.

Because of those tribes' efforts to comply with state law, they do not face shutdown orders, said a spokesman for U.S. Atty. Gregory A. Vega. They are permitted to continue using the illegal slot machines because the lottery-based devices are not yet widely available.

The U.S. attorneys in Sacramento and San Francisco referred inquiries to a Justice Department spokeswoman in Washington, who said attorneys were still analyzing the Supreme Court ruling and had not yet decided what to do about it.

She acknowledged that, given Monday's court ruling, the Justice Department could move to close down the illegal slot machines because they are operating without state or federal permission.

But U.S. Atty. Gen. Janet Reno has advised her attorneys in the past to move cautiously in taking enforcement actions against Indian tribes.

And one Justice Department official noted Tuesday that, if it seems likely that a constitutional amendment qualifies for the March ballot, federal agents will likely stand back until the issue is resolved in the political arena.

The Legislature is scheduled to adjourn Sept. 10 but return on Jan. 3—enough time to still craft a ballot measure. Such a measure would require a two-thirds favorable vote—27 in the 40-member Senate and 54 in the 80-member Assembly.

Times staff writer Eric Lichtblau in Washington contributed to this article.

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San Francisco Chronicle

Article Date: AUG 25 1999

A Proposal To Replace Prop. 5

Lawmakers, Davis move after court action

By Lynda Gledhill

CHRONICLE SACRAMENTO BUREAU

SACRAMENTO — Hours after a California Supreme Court ruling placed the future of Indian gambling in flux, key lawmakers and Governor Gray Davis began scrambling to help tribes keep their casinos and avoid a costly initiative war next year.

Lawmakers and Davis favor their own solution to

a new tribe-backed initiative, similar to Proposition 5, which the court struck down Monday, that would give Indians the constitutional right to create Nevada-style casinos without legislative or gubernatorial input.

Senate President Pro Tem John Burton, D-San Francisco, introduced a constitutional amendment on the floor of the Senate Monday afternoon, hours after the court ruling, that can contain any language worked out in a future compromise. The "shell amendment" passed 31 to 3.

Sources said, however, that chances of striking a deal in the 13 days left in the legislative session are slim — even though the court's ruling means that some of the state's largest Indian casinos could be closed within 45 days.

"We're running out of time. It's probably even money at best to come up with a legislative solution, but it would be far preferable in my judgment to the initiative... that is being placed on the ballot," said Burton, who is working with Davis on a compromise.

The Supreme Court's 6-to-1 decision striking down Proposition 5, which received an overwhelming 63 percent of the vote last year, was based on a state constitutional ban on Nevada-style casinos.

Even before that ruling, some Indian tribes were gathering signa-

tures to put a Proposition 5-style constitutional amendment on the March 2000 ballot. That could lead to a repetition of last fall's \$91.3 million fight between gaming tribes and Las Vegas casinos.

But lawmakers would prefer not to see an independent initiative, which would limit the authority the governor and the legislature have in negotiating and approving compacts with the tribes.

Complicating the problem of drafting a compromise is the number of parties that have a stake in the outcome. In addition to tribes with casinos, there are card clubs and racetracks who see Indian casinos as competitors, labor unions that want representation at the tribal casinos, and Indian tribes that do not currently have gaming but may want it in the future.

Each of these interests may have its own opinion about whether a

constitutional amendment written by the Legislature is better than an initiative.

"There may be tribes that think this proposed constitutional amendment only gives them a portion of what the initiative would give them," said Fred Heistand, a lawyer for the Rumsey and Pala tribes. The Rumsey tribe operates a casino, and the Pala wants to open one.

"Some may feel we have a sure thing with Proposition 5 if we put a new initiative before the people," Heistand said. "It wouldn't surprise me if there was a split among the tribes."

Burton said he is betting that the tribes will see the economic advantages of a legislative solution.

"I've met with several of the tribes, and they would be willing to accept a legislative solution that is less than their (new initiative because) it would be about a \$60 million or \$70 million saving for them," he said.

Time is a critical factor, and not only because the end of the legislative session is looming. Ten of the largest gaming tribes in the state face a shutdown of their operations in 45 days, according to Thom Mrozek, a spokesman for the U.S. attorney's office in Los Angeles.

That office had sued the tribes for running casinos without a compact with the state. Under an agreement approved by the courts, the tribes agreed to shut down their operations within 15 days if Proposition 5 was declared unconstitutional.

That period will begin once the court decision is certified, in 30 days, Mrozek said. Barring any action from the state, he said, he expects the tribes to stop operations.

Any action taken by the governor or the Legislature in the meantime, could change that, Mrozek said.

"The crux of the lawsuit was that there was no compact, therefore the operations were illegal," he said. "If they can implement one, or even announce one, it could change things."

However, given the overwhelming public support for Proposition 5 last year and the Clinton administration's support of Indian gaming, it is considered unlikely that the Justice Department will move to close the casinos without giving the governor plenty of time to reach a compromise.

Michael Bustamante, the governor's press secretary, would not comment on whether the governor would try to reach separate compacts with the tribes.

"The governor is working with legislators and the tribal representatives to find a constitutionally acceptable approach," Bustamante said.

But Burton said a legislative approach will work only if all sides find something to like.

"It's not going to be something that disadvantages the tribes," he said. "If it's something that doesn't have very broad-based support, it isn't going to happen."

Inside

► A needle distribution bill now awaits Gov. Gray Davis' signature. **A23**

CA 11

Article Date:

SEP 10 1999

Senate OKs \$1.9-Billion Water Bond Issue

Legislature: Southland would get 60% of funds under measure, which would pay for flood control, pollution protection and other projects. It awaits Assembly vote.

By VIRGINIA ELLIS, Times Staff Writer

SACRAMENTO--With 60% of its funds marked for Southern California, a hotly debated \$1.9-billion bond issue to provide massive investment in new water supplies, pollution protection and flood control easily passed the state Senate late Thursday and headed for the Assembly.

Hours earlier, an enthusiastic Gov. Gray Davis announced his support, calling the issue an important milestone in the state's drive to upgrade long-neglected facilities.

"[It] will provide sufficient resources to deal with water quality programs, flood protection, safe drinking water and water reliability programs," Davis said.

The result of weeks of discussion, the proposal represented a politically cautious, middle-of-the-road solution to one of the state's most contentious problems. It attempted to balance the needs of all the warring factions--agriculture and environmentalists, water-rich Northern California and arid Southern California--by offering something to each.

For environmentalists, it provided millions of dollars to restore wildlife habitat near rivers and streams, protect salmon and improve water quality at public beaches. For farming interests, it poured millions more into projects to control pollution caused by agricultural runoff.

To mollify Northern California cities and counties, it provided funds for flood protection and for shoring up levees in the Sacramento-San Joaquin River Delta. Southern California got money to pay for the design and construction of underground water storage facilities, water recycling programs and water conservation projects.

Southern California water officials said the bond issue, which would go to voters on the March 2000 ballot, would not only help ensure a reliable water supply but also make it less likely that water rate increases will be needed in the near future.

"I think the real groundbreaking elements in these bonds is the fact that for the first time in recent memory, 60% of certain components apply explicitly to Southern California," said Adan Ortega, a spokesman for the Metropolitan Water District of Southern California. "That's what's really new in these bonds for Southern California."

Lawmakers acknowledged privately they had deliberately tilted the funding toward Southern California because the bond issue did not include any money for more reservoirs or dams--both of which are a high priority in that part of the state.

But, they said, if those had been included the bond issue would have lost support from environmentalists and Northern Californians, who view the construction of reservoirs and dams as harmful to fish and wildlife.

The water bond issue is the biggest in a series of bond measures the Legislature will present to the voters for their approval.

A \$2.1-billion issue for the maintenance and acquisition of parks (AB 18) and a \$350-million proposal to construct public libraries (SB 3) have already passed the Legislature. Two other proposals--\$220 million to construct forensic crime laboratories (AB 1391) and \$50 million to design and build veterans' homes (SB 630) also are expected to win legislative approval.

Davis has endorsed all five measures.

Opposition to the proposals came from lawmakers who were concerned that the bond issues would hurt the state's fiscal stability.

"I'm worried about whether we're putting too much debt on the ballot at the same time," said Sen. Debra Bowen (D-Marina del Rey). But she voted for the water measure.

In other legislative activity Thursday:

* After an emotional debate, the Assembly passed 58 to 12 a

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requirement that data on race and traffic stops be collected by the California Highway Patrol and local law enforcement agencies. SB 78 by Sen. Kevin Murray (D-Los Angeles), which went back to the Senate for final OK, was prompted by complaints from minority motorists, including Murray himself, that they were unfairly stopped because of their race or ethnicity.

"It deals with an effort to prevent racial profiling" by a relatively few law enforcement officers, said Assemblyman Rod Pacheco (R-Riverside), a former county prosecutor who is Latino. Almost shouting, Pacheco told his colleagues: "I can take it. I can go through those experiences, but I've got four kids and they look like me and I don't want them to go through that in their lives."

Some Republicans voiced concerns that police would not have time to collect the data and the program would be too costly.

* Also with vigorous debate, the Senate approved a bill to ban discrimination against gays in public schools, revisiting an emotional issue that captivated the Capitol earlier this year. AB 537 is a resurrected version of a measure defeated in the Assembly in June. As with its predecessor, this bill, by Assemblywoman Sheila Kuehl (D-Santa Monica), has sparked spirited opposition from religious groups and others who say it gives a single group unwarranted special protection.

"To single out a group just because they have uncontrollable passion in one direction or another is absolutely wrong," said Sen. Richard Mountjoy (R-Arcadia). "Are we going to take all these strange behaviors of mankind and say they're all protected?"

Supporters said the bill merely adds sexual orientation to the list of categories--such as gender, race and ancestry--that the Education Code protects from discrimination.

"It's about giving all of California's children a fair chance at education and . . . showing our children that no matter how different a person is from us, we have no right to harm, intimidate or discriminate against them," said Sen. Dede Alpert (D-Coronado).

The bill was headed back for a final vote, expected to be close, in the Assembly.

* A Los Angeles senator's two-year battle to ensure that health standards protect children from air pollution has paid off, with SB 25 clearing the Legislature and awaiting action by the governor. The bill requires California's Environmental Protection Agency to review air pollution standards to ensure they adequately protect infants and children. It also requires the California Air Resources Board to evaluate its air monitoring program and make changes to more accurately measure the exposure of infants and children to pollutants.

It also creates a Children's Environmental Health Center to advise the governor on environmental health threats to children.

Last year the bill was dubbed a "job killer" by the California Chamber of Commerce and was vetoed by Wilson. This year, opposition was far less intense.

* Two bills regulating the use of laser pointers are on their way to the governor. Initially developed for board room presentations, the gadgets have become increasingly popular among teenagers, who point them at friends, vehicles and athletes during sporting events. Recently, the U.S. Food and Drug Administration warned parents and school officials about the possibility of eye damage from laser pointers. Their bright red light can also be disorienting for motorists.

A bill by Assemblyman Scott Wildman (D-Los Angeles) makes it a misdemeanor to use one in a threatening manner. Pointing a laser at a police officer with the same intention could result in up to six months in jail under AB 221. A second measure by Assemblyman Herb Wesson (D-Los Angeles) forbids the sale of laser pointers to minors who are not accompanied by an adult. Wesson's bill (AB 293) also bans minors from using lasers on school grounds except for educational or employment purposes.

* Schools must notify parents and staff before spraying pesticides under a bill by Assemblyman Kevin Shelley (D-San Francisco). Dubbed the Healthy Schools Act, AB 1207 began as an attempt to ban the use of pesticides on campuses, but was heavily amended after protests from agriculture and the chemical industry. It also requires the state Department of Pesticide Regulation to help schools with nonchemical

Ref 3

methods to control pests and sets up a task force to study other potential environmental hazards at school sites.

* Lawmakers, Davis and representatives of Native Americans neared a deal that would allow expansion of gambling on Indian land. The deal would permit tribes to legally operate card games and have more than 40,000 slot machines, up from 23,500. Now, most tribes with casinos are operating in violation of the law and face the prospect of being

shut down by federal law enforcement.

Tribal leaders were conferring late Thursday with Davis' aides on a key piece of the deal--whether labor unions can organize workers at the casinos. Tribes and the Hotel Employees and Restaurant Employees have had bitter battles over the issue, with Indians insisting that unions have little right to organize on their sovereign land.

As details of the compact between the state and tribes were being worked out, Senate President Pro Tem John Burton (D-San Francisco) was preparing to push for legislative approval of a state constitutional amendment that would permit Indians to legally operate slot machines and card games. Voters would be asked to approve it in March.

Burton's measure, Senate Constitutional Amendment 11, is part of an overall deal. Several tribes, including many with major casinos, are backing it. However, the Palm Springs-area Agua Caliente band, which has a casino, continues to press ahead with plans to place an initiative on the March ballot.

* Moving to halt the decline of fish stocks along the California coast, the state Senate passed a bill to overhaul a patchwork of ocean reserves that for the first time establishes as a key strategy fishing-exclusion zones to protect marine life. The Marine Life Protection Act is the most significant ocean-protection bill to come out of the Legislature this year.

Sponsored by Shelley, the bill commits California to setting aside diverse ocean habitats, from deep canyons to sandy flats to rocky reefs, in a coordinated network of reserves. This will benefit scientific research, keep part of the ocean pristine and create fish refuges to function as nurseries to repopulate surrounding waters depleted by overharvesting. It was awaiting final OK in the Assembly before being sent to Davis.

* The Assembly gave final passage to a measure (AB 1127) by Assemblyman Darrell Steinberg (D-Sacramento) to crack down on violations by employers of the state's worker safety laws. Under current law, the death or injury of a worker can be prosecuted as a misdemeanor with a \$70,000 maximum fine. Steinberg's measure, sent to the governor on a 48-23 vote, would raise the maximum fine for a willful violation by a corporation to \$1.5 million.

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Fight isn't over

New gambling measures likely headed for the ballot.

(Published August 30, 1999)

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As welcome as it is, the court's decision does not end the controversy. Slot machines continue to operate illegally in Indian casinos across the state. The federal government refuses, for now, to enforce the law and shut them down.

In addition, the most aggressive of the gambling tribes are circulating a new initiative, this one a constitutional amendment they claim will overcome the Supreme Court's objections.

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If SCA 11 makes the March ballot, as anticipated, it will probably compete with the new Indian gambling initiative already in circulation. Astute observers say the new initiative - being pushed by the tribes and the same army of consultants who made a bundle off Proposition 5 - won't survive a constitutional challenge. Here's why:

When Congress approved the Indian Gaming Regulatory Act, it required governors to negotiate compacts with gambling tribes. To compel a governor

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to simply sign a compact drawn up by Indian casino operators - as Proposition 5 did and the planned new initiative proposes - would violate of the constitutional principle of separation of powers.

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Hayworth Bill to Stop California Governor's Attack on Tribal Sovereignty

H.R. 2992 would stop blackmailing of tribes and revoke labor agreements forced on tribes by Governor Davis

Washington (September 30, 1999) -- Congressman J.D. Hayworth (R-Arizona) today introduced legislation (H.R. 2992) that would protect the sovereignty of Indian tribes by prohibiting labor agreements from being part of future Tribal-State gaming compacts and revoking the agreements recently forced on the tribes by California Governor Gray Davis.

On August 23rd, the California Supreme Court invalidated Prop. 5, which had confirmed gaming rights for California tribes. As a result, the U.S. attorney declared that all tribal gaming in California must cease by October 13 unless Tribal-State compacts are in place. Governor Gray Davis used the negotiating leverage given him by the court decision and the U.S. attorney's action to force tribes to negotiate a separate agreement with organized labor as a condition of reaching agreement with him on the gaming compact. As sovereign governmental entities recognized by the Constitution, tribes are supposed to be able to determine their own labor policies.

"There's a word for what the Governor of California did to tribes, and it's called blackmail," said Hayworth. "Davis used his negotiating leverage to force the tribes to cede their sovereignty, their Constitutional rights, to the state of California. His actions show spiteful disrespect to tribes and their right."

Hayworth also announced that the House Resources Committee has agreed to hold a hearing on H.R. 2992 within the next two weeks. It is Hayworth's intention to push the House leadership to consider this bill after the hearing. Hayworth will also be speaking on the issue at the annual convention of the National Congress of American Indians this Sunday in Palm Springs, California.

"I will do everything in my power to see this bill enacted into law before this session of Congress ends," said Hayworth. "But whether we succeed may come down to whether the democrats like Dick Gephardt, Patrick Kennedy, and Bill Clinton choose to support the Indians and the Constitution or the labor bosses. One thing is for sure, tribal leaders throughout America are watching this issue with great interests."

SOURCE: Hayworth, J.D. - 6th District, Arizona

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SCA11 file

The Desert Sun

Opinion

Tuesday, September 7, 1999



JOHN A. JAMES
VALLEY VOICE

Compromise best solution for gaming pact

Native American leaders resume negotiations today in Sacramento on tribal government gaming with Gov. Gray Davis. More than 15,000 casino employees and 50,000 California jobs are at stake.

Last Tuesday, gaming tribes received letters from area U.S. attorneys declaring their intention to seize 23,000 gaming machines from tribes without compacts by Oct. 13. Since video games generate at least two-thirds of casino revenue, tribes will be forced to lay off most of their employees.

This will force many tribal casinos to close when their proceeds have lifted tribes from poverty, providing members with housing, health care, jobs and educational opportunities making us valuable contributors to our family of governments.

The Cabazon tribe is known for its relentless defense of sovereignty and rights. As Cabazon chairman, I promised to our members, employees, friends and supporters in California to defend our honor by whatever means.

Fortunately, most of California's tribes were close to a tentative compromise last week. Unfortunately, our agreement will be nullified if the Agua Caliente Band of Cahuilla Indians refuses to drop a ballot initiative on gaming that's broader than what Davis wants.

We accept the fact that Davis has no intention of pandering to tribes. As sovereigns to sovereigns, the gov-

ernor has been straightforward through the negotiations with his concerns about uncontrolled growth of gaming. But in exchange for limiting the number of machines, the proposal permits tribes to use genuine Vegas-style coin-in, coin-out slot machines granting exclusivity in accordance with the wishes of more than 63 percent of Californians who supported tribes on last November's ballot. In addition, Davis on a bipartisan basis has brought both houses of the legislature together to amend the state's constitution to permit these forms of gaming and granting him authority to negotiate and sign gaming compacts.

No, the compact isn't perfect, but isn't that what negotiations are all about — compromise. Proposition 5 was struck down by the courts and tribal leaders across California are hopeful of reaching a compact this final week of the legislative session.

Davis offered a helping hand with this change in the constitution and formula, which lifts all tribes in the state out of poverty. Our tribe presented the governor with our most sacred symbol — an eagle feather — earned on by an act of courage for selfless reasons.

Davis will be attacked no matter what he does. Better that he will be attacked for doing the right thing. The clock is ticking and U.S. attorneys have been patient with our ongoing social cause constrained by legal maneuvers. There is a time for war and there is a time for peace. We now for our children can bring an end to the more than 100 years of divisiveness between the state and tribes.

Please do the right thing — compromise for those of us who have been on the red road — for it has been a long one.

James is the tribal chairman of Cabazon Band of Mission Indians.

The Desert Sun

Tuesday
September 7, 1999

Tribes disagree on gaming resolution

Agua Calientes want voters to decide casinos' future instead of aiming for compromise

BY PAM NOLES
THE DESERT SUN

SACRAMENTO — Sniping between two local tribes over gaming negotiations with Gov. Gray Davis' office continued as talks moved into the home stretch on Monday, with all involved hoping to wrap things up before the state Legislature closes Thursday.



Davis

At issue for John James, chairman of the Cabazon Band of Mission Indians, and Richard Milanovich, chairman of the Agua Caliente Band of Cahuilla Indians, is



Battin

whether a drive to bring a new version of Proposition 5 before voters in March is standing in the way of a settlement now.

"I believe that the Agua Calientes and the rest of the tribes are trying to accomplish the same thing. I believe they have chosen different paths to do that," said Assemblyman Jim Battin, R-La Quinta. "Until they have an agreement, I think there is a lack of trust there, and frankly, I don't blame them. Candidate Davis was going to be there for them and respect their sovereignty. And now Gov. Davis is talking a different tune."

All tribes in California operating casinos without state consent face the threat of an

Oct. 13 shutdown by federal prosecutors. The Cabazons operate the Fantasy Springs Casino near Indio. The Agua Calientes own the Spa Hotel and Casino in Palm Springs.

While the Cabazons want to reach a compromise with Davis, the Agua Calientes prefer to let the voters decide through an initiative in March, and are leading a statewide charge to put a measure on the ballot.

The new Prop. 5 would allow all tribes to have the constitutional right to operate casinos and issue a compact with the state as required by federal law. The bill also would severely limit the role of the state.

Last month, California's Supreme Court ruled the old Prop. 5 unconstitutional.

James said the new version would be costly, remain tied up in the courts and likely get struck down again. It should be viewed as a "spare tire" placed into the trunk in case of emergency. Right now, it's in the way of a compromise, he said.

"Mr. Milanovich, in his wisdom there, has committed himself to the vote. He's got himself hanging out there," James said. "Some people are pretty hard-headed. They'll get something in their mind and they won't give in. That's kind of our dilemma there. I think what he's trying to do is get his own interests in there ahead of everyone else."

But Milanovich said he's not the one filled with self-interest. He's the one who wants some sort of firm guarantee that a governor or Legislature can't renege on later.

"It's not that we're hanging our hat on this one issue," Milanovich said. "We feel we have a winner right now. Why should we give up more than what we have to when we can wait until March and come out completely ahead?"

On the table is a tentative compromise that would allow gaming tribes a limit of two casinos, with a range of 2,000 to 2,500 Las Vegas-style video gaming machines split between each casino. The deal would

Please see GAMING, A

Gaming

Continued from A1
 also establish Las Vegas-style black-jack in the casinos, which means players would not pay to place a bet.

The tentative compromise would also establish some form of revenue sharing between gaming and non-gaming tribes.

The tentative compromise was pretty much firm'd up by Friday, with tweaking continuing throughout the weekend, said Mark Nichols, chief executive officer of the Cabazons. Davis' staff is preparing documents for the tribes to view early this week.

James said a majority of tribes are prepared to sign off on the agreement, with or without the Agua Calientes.

"We can go ahead and make our proposal. If he wants to join us, fine. If he doesn't, that's fine, too," James said. "They can sit out there by themselves if they want. A little bit of something is better than nothing."

Milanovich said the rest are free to move ahead, but he prefers guarantees.

"That's their right to go ahead and sign what they think they should sign," he said. "We will sign the compact if it is fair and equitable for everybody without the strings and intrusions from the state and federal authorities on tribal operations."

Bartin, who is helping make sure that tribal interests are guarded in the legislature, said his bill, AB 1385, which gives the governor the authority to execute a compact with the tribe, is currently in the Senate. Its future depends on how negotiations go between the tribes and Davis.

"It's not that we're hanging our hat on this one issue. We feel we have a winner right now. Why should we give up more than what we have to when we can wait until March and come out completely ahead?"

Richard Milanovich
 Agua Caliente Band of Cahuille Indians

correspondence

A/A

SCA 11 Amendment

All tribal gambling facilities offering Class III gambling as defined by the Indian Gaming Regulatory Act, except for those presently in operation as of August 31, 1999, shall be located on the base reservation of the tribe sponsoring the gambling activity. No off base reservation Class III gambling facilities shall otherwise be permitted except as set forth in this section.

Non-contiguous parcels of land which are not the tribe's base reservation which are developed by a tribe for the primary purpose of operating a commercial enterprise which includes Class III gambling of any type or amount are expressly prohibited unless the off base reservation site is expressly approved by local compact between the tribe and all municipalities, towns, cities and counties within the gambling location's sphere of impact.

"Base reservation" is defined as a single contiguous parcel of land upon which the majority of the tribal citizens reside and upon which the tribe has developed or plans to develop its community.

"Sphere of impact" is defined as a ten mile radius from the farthest reaches of the parcel upon which any tribal Class III gambling activity is proposed.

Written by Ronald Scholar, Esq.

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STATE OF CALIFORNIA
OFFICE OF LEGISLATIVE COUNSEL

COPY

September 14, 1999

Honorable Richard Polanco

S.C.A. 7 — Conflict

The above measure, introduced by you, which is now set for hearing in the

Senate Constitutional Amendments Committee

appears to be in conflict with the following other measure(s):

A.C.A. 22 - Floyd

S.C.A. 4 - McPherson

S.C.A. 11 - Burton and Assembly
Member Villaraigosa

S.C.A. 12 - Perata

**ENACTMENT OF THESE MEASURES IN THEIR PRESENT FORM MAY GIVE RISE TO
A SERIOUS LEGAL PROBLEM WHICH OFTEN CAN BE AVOIDED BY APPROPRIATE
AMENDMENTS.**

**WE URGE YOU TO CONSULT OUR OFFICE IN THIS REGARD AT YOUR EARLIEST
CONVENIENCE.**

Very truly yours,
BION M. GREGORY
LEGISLATIVE COUNSEL

By: Corrections Section
PH: 445-0430

cc: Committee
named above
Each lead author
concerned

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