

## COMPLETE BILL HISTORY

10/23/00

BILL NUMBER : S.C.A. No. 11  
AUTHOR : Burton  
TOPIC : Gambling.  
TYPE OF BILL : INA           NUR           NAP           2/3           NLO           FIS           NTA

## BILL HISTORY

1999

Sept. 28 Chaptered by Secretary of State. Res. Chapter 142, Statutes of 1999.  
Sept. 28 Enrolled. To Secretary of State at 8:30 a.m.  
Sept. 10 In Senate. Senate concurs in Assembly amendments. (Ayes 35. Noes 0. Page 3259.) To enrollment.  
Sept. 10 Read second time. To third reading. Read and adopted. (Ayes 75. Noes 4. Page 4378.) To Senate.  
Sept. 9 Read second time. Amended. To third reading.  
Sept. 8 From committee: Be adopted as amended. (Ayes 17. Noes 0.)  
Sept. 8 From committee: Be adopted, but first be re-referred to Com. on APPR. (Ayes 18. Noes 0.) Re-referred to Com. on APPR.  
Sept. 8 Read second time. Amended. Re-referred to Com. on G.O.  
Sept. 7 From committee: Be adopted as amended, but first amend, and re-refer to Com. on G.O. (Ayes 5. Noes 1.)  
Sept. 7 Article IV, Sec. 8(a) of Constitution dispensed with and Joint Rules 55 and 61(a) (9), (10), & (11) suspended.  
Sept. 7 In Assembly. Read first time. To Coms. on E., R. & C.A. and G.O.  
Aug. 24 From print. May be acted upon on or after September 23.  
Aug. 23 Introduced. Read first time. Article IV, Sec. 8(b) and Joint Rules 10.8 and 55 suspended. Read second time. Read and adopted. (Ayes 31. Noes 3. Page 2555.) To Assembly.

UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL

MEASURE: SCA 11
TOPIC: Gambling.
DATE: 09/10/99
LOCATION: SEN. FLOOR
MOTION: W/O REF. TO FILE SCA11 Burton
(AYES 35. NOES 0.) (PASS)

AYES
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Alarcon Alpert Baca Bowen
Brulte Burton Chesbro Costa
Dunn Escutia Figueroa Hayden
Haynes Hughes Johannessen Johnson
Johnston Karnette Kelley Knight
McPherson Murray O'Connell Ortiz
Peace Perata Polanco Poochigian

Rainey Schiff Sher Solis
Speier Vasconcellos Wright

NOES
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ABSENT, ABSTAINING, OR NOT VOTING
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Leslie Lewis Monteith Morrow
Mountjoy

MEASURE: SCA 11
TOPIC: Gambling.
DATE: 09/10/99
LOCATION: ASM. FLOOR
MOTION: SCA 11 BURTON THIRD READING BY MR. SPEAKER
(AYES 75. NOES 4.) (PASS)

AYES
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Ackerman Alquist Aroner Ashburn

UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL

Bates	Battin	Baugh	Bock
Brewer	Briggs	Calderon	Campbell
Cardenas	Cardoza	Cedillo	Corbett
Correa	Cox	Cunneen	Davis
Dickerson	Ducheny	Dutra	Firebaugh
Florez	Floyd	Frusetta	Gallegos
Granlund	Havice	Hertzberg	Honda
Jackson	Keeley	Knox	Kuehl
Leach	Lempert	Leonard	Longville
Lowenthal	Machado	Maddox	Maldonado
Margett	Mazzoni	McClintock	Migden
Nakano	Olberg	Oller	Robert Pacheco
Rod Pacheco	Papan	Pescetti	Reyes
Romero	Runner	Scott	Shelley
Soto	Steinberg	Strickland	Strom-Martin
Thomson	Torlakson	Vincent	Washington
Wayne	Wesson	Wiggins	Wildman
Wright	Zettel	Villaraigosa	

NOES  
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Baldwin House Kaloogian Thompson

ABSENT, ABSTAINING, OR NOT VOTING  
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Aanestad

MEASURE: SCA 11  
 TOPIC: Gambling,  
 DATE: 09/08/99  
 LOCATION: ASM. G.O.  
 MOTION: Be adopted and be re-referred to the Committee on Appropriations.  
 (AYES 18. NOES 0.) (PASS)

AYES  
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Wesson	Granlund	Ackerman	Battin
Briggs	Cardenas	Cardoza	Floyd
Hertzberg	Lempert	Longville	Machado
Maldonado	Margett	Soto	Vincent

UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL  
Wiggins Wright

NOES  
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ABSENT, ABSTAINING, OR NOT VOTING  
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MEASURE: SCA 11  
TOPIC: Gambling.  
DATE: 09/08/99  
LOCATION: ASM. APPR.  
MOTION: Be adopted as amended.  
(AYES 17. NOES 0.) (PASS)

AYES  
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Migden  
Hertzberg  
Romero  
Thomson  
Aroner

Brewer  
Kuehl  
Runner  
Wesson

Ackerman  
Maldonado  
Shelley  
Wiggins

Cedillo  
Papan  
Steinberg  
Zettel

NOES  
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ABSENT, ABSTAINING, OR NOT VOTING  
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Ashburn

Campbell

Davis

Wright

UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL

MEASURE: SCA 11  
 TOPIC: Gambling.  
 DATE: 09/07/99  
 LOCATION: ASM. FLOOR  
 MOTION: SCA 11 DISP 30 DAY PRINT RULE  
 (AYES 72. NOES 2.) (PASS)

AYES  
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Ackerman	Alquist	Aroner	Ashburn
Bates	Battin	Baugh	Bock
Brewer	Calderon	Campbell	Cardenas
Cardoza	Cedillo	Corbett	Correa
Cox	Cunneen	Davis	Dickerson
Ducheny	Dutra	Firebaugh	Florez
Floyd	Frusetta	Gallegos	Granlund
Havice	Hertzberg	Honda	House
Jackson	Keeley	Knox	Kuehl
Leach	Lempert	Leonard	Longville
Lowenthal	Machado	Maddox	Maldonado
Margett	Mazzoni	McClintock	Migden
Nakano	Olberg	Oller	Robert Pacheco
Rod Pacheco	Papan	Pescetti	Reyes
Romero	Runner	Scott	Shelley
Soto	Steinberg	Strickland	Strom-Martin
Thomson	Torlakson	Wayne	Wiggins
Wildman	Wright	Zettel	Villaraigosa

NOES  
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Baldwin                      Thompson

ABSENT, ABSTAINING, OR NOT VOTING  
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Aanestad	Briggs	Kaloogian	Vincent
Washington	Wesson		

## UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL

MEASURE: SCA 11  
 TOPIC: Gambling.  
 DATE: 09/07/99  
 LOCATION: ASM. FLOOR  
 MOTION: SCA 11 SUSPEND JOINT RULE 61  
 (AYES 74. NOES 3.) (PASS)

## AYES

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Aanestad	Ackerman	Alquist	Aroner
Ashburn	Baldwin	Bates	Battin
Baugh	Bock	Brewer	Briggs
Calderon	Campbell	Cardenas	Cardoza
Cedillo	Corbett	Correa	Cox
Cunneen	Davis	Dickerson	Ducheny
Dutra	Firebaugh	Florez	Floyd
Frusetta	Gallegos	Granlund	Havice
Hertzberg	Honda	Jackson	Keeley
Knox	Kuehl	Leach	Lempert
Leonard	Longville	Lowenthal	Maddox
Maldonado	Margett	Mazzoni	McClintock
Migden	Nakano	Olberg	Oller
Robert Pacheco	Rod Pacheco	Papan	Pescetti
Reyes	Romero	Runner	Scott
Shelley	Soto	Steinberg	Strickland
Strom-Martin	Thomson	Torlakson	Vincent
Wayne	Wiggins	Wildman	Wright
Zettel	Villaraigosa		

## NOES

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Machado	Thompson	Washington
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ABSENT, ABSTAINING, OR NOT VOTING

UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL

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House	Kaloogian	Wesson
MEASURE:	SCA 11	
TOPIC:	Gambling.	
DATE:	09/07/99	
LOCATION:	ASM. E., R. & C.A.	
MOTION:	Be adopted as amended and be re-referred to the Committee on Governmental Organization.	
	(AYES 5. NOES 1.) (PASS)	

AYES  
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Vincent Shelley	Battin	Cardenas	Longville
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NOES  
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Thompson

ABSENT, ABSTAINING, OR NOT VOTING  
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Cedillo	Olberg
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MEASURE:	SCA 11
TOPIC:	Gambling.
DATE:	08/23/99
LOCATION:	SEN. FLOOR
MOTION:	W/O REF. TO FILE SCA11 Burton
	(AYES 31. NOES 3.) (PASS)

AYES  
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Alarcon	Alpert	Baca	Brulte
Burton	Costa	Dunn	Escutia
Figueroa	Hayden	Haynes	Hughes
Johannessen	Johnson	Johnston	Karnette

UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL  
 Kelley Knight Lewis McPherson  
 O'Connell Ortiz Peace Perata  
 Polanco Rainey Schiff Sher

Solis Speier Vasconcellos

NOES  
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Morrow Mountjoy Wright

ABSENT, ABSTAINING, OR NOT VOTING  
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Bowen Chesbro Leslie Monteith  
 Murray Poochigian

MEASURE: SCA 11  
 TOPIC: Gambling.  
 DATE: 08/23/99  
 LOCATION: SEN. FLOOR  
 MOTION: W/O REF. TO FILE SCA11  
 (AYES 39. NOES 0.) (PASS)

AYES  
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Alarcon Alpert Baca Brulte  
 Burton Chesbro Costa Dunn  
 Escutia Figueroa Hayden Haynes  
 Hughes Johannessen Johnson Johnston  
 Karnette Kelley Knight Leslie  
 Lewis McPherson Monteith Morrow  
 Mountjoy Murray O'Connell Ortiz

Peace Perata Polanco Poochigian  
 Rainey Schiff Sher Solis  
 Speier Vasconcellos Wright

NOES  
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UNOFFICIAL BALLOT

Display 1999-2000 Votes - ROLL CALL

ABSENT, ABSTAINING, OR NOT VOTING

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Bowen

**SENATE RULES COMMITTEE**

SCA 11

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 445-6614 Fax: (916) 327-4478

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UNFINISHED BUSINESS

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Bill No: SCA 11  
Author: Burton (D)  
Amended: 9/9/99  
Vote: 27

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WITHOUT REFERENCE TO COMMITTEE OR FILE

SENATE FLOOR: 39-0, 8/23/99

AYES: Alarcon, Alpert, Baca, Brulte, Burton, Chesbro, Costa, Dunn, Escutia, Figueroa, Hayden, Haynes, Hughes, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Leslie, Lewis, McPherson, Monteith, Morrow, Mountjoy, Murray, O'Connell, Ortiz, Peace, Perata, Polanco, Poochigian, Rainey, Schiff, Sher, Solis, Speier, Vasconcellos, Wright  
NOT VOTING: Bowen

ASSEMBLY FLOOR: 72-2, 9/7/99 - See last page for vote

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SUBJECT: Gambling

SOURCE: Author

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DIGEST: Assembly Amendments delete prior version relating to horse racing and horse racing meetings as specified.

This constitutional amendment provides that, notwithstanding the provisions of the California Constitution prohibiting lotteries and casinos of the type operating in Nevada and New Jersey, the Governor is authorized 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 banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. This constitution

CONTINUED

amendment also expressly permits slot machines, lottery games, and banking and percentage card games to be conducted and operated on tribal lands subject to these compacts.

Senate Floor Amendments of 9/3/99 authorize the Governor to negotiate and conclude a compact, subject to ratification of the Legislature, for the operation of slot machines and banking card games by federally recognized Indian tribes on Indian lands in California as specified.

**ANALYSIS:** The California Constitution provides that the Legislature has no power to authorize lotteries, and shall prohibit the sale of lottery tickets in the state, but specifically authorizes the establishment of the California State Lottery. The California Constitution provides that the Legislature may provide for the regulation of horse racing and wagering on the results and may authorize cities and counties to provide for bingo games, but only for charitable purposes. The California Constitution also provides that the Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

**FISCAL EFFECT:** Appropriation: No Fiscal Com.: Yes Local: No

**OPPOSITION:** (Verified 9/9/99)

Committee on Moral Concerns

**ARGUMENTS IN SUPPORT:** Proponents contend that this legislation is necessary for the tribes to achieve a compact with the State which would allow them to continue to operate the games they are currently conducting.

**ARGUMENTS IN OPPOSITION:** The Committee on Moral Concerns is opposed to the legalization of gambling and believes that the effects of gambling is socially destructive.

**ASSEMBLY FLOOR:**

AYES: Ackerman, Alquist, Aroner, Ashburn, Bates, Battin, Baugh, Bock, Brewer, Calderon, Campbell, Cardenas, Cardoza, Cedillo, Corbett, Correa, Cox, Cunneen, Davis, Dickerson, Ducheny, Dutra, Firebaugh, Florez, Floyd, Frusetta, Gallegos, Granlund, Havice, Hertzberg, Honda, House, Jackson, Keeley, Knox, Kuehl, Leach, Lempert, Leonard, Longville, Lowenthal, Machado, Maddox, Maldonado, Margett,

CONTINUED

Mazzoni, McClintock, Migden, Nakano, Olberg, Oller, Robert Pacheco,  
Rod Pacheco, Papan, Pescetti, Reyes, Romero, Runner, Scott, Shelley,  
Soto, Steinberg, Strickland, Strom-Martin, Thomson, Torlakson, Wayne,  
Wiggins, Wildman, Wright, Zettel, Villaraigosa

NOES: Baldwin, Thompson

NOT VOTING: Aanestad, Briggs, Kaloogian, Vincent, Washington,  
Wesson

DLW:sl 9/10/99 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*

SENATE THIRD READING  
SCA 11 (Burton)  
As Amended September 9, 1999  
2/3 vote

SENATE VOTE: Vote not relevant

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ELECTIONS 5-1 GOVERNMENTAL ORGANIZATION 18-0

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Ayes: Vincent, Battin, Cardenas, Frusetta,  
Longville

Ayes: Wesson, Granlund, Ackerman, Battin,  
Briggs, Cardenas, Cardoza, Floyd,  
Hertzberg, Lempert, Longville, Machado,  
Maldonado, Margett, Soto, Vincent,  
Wiggins, Wright

Nays: Thompson

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APPROPRIATIONS 17-0

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Ayes: Migden, Brewer, Ackerman, Cedillo,  
Hertzberg, Kuehl, Maldonado, Papan,  
Romero, Runner, Shelley, Steinberg,  
Thomson, Wesson, Wiggins, Zettel,  
Aroner

SUMMARY: Authorizes the Governor to enter into compacts with Indian tribes to allow certain forms of gambling on Indian lands in California, subject to ratification of those compacts by the Legislature. Specifically, this bill:

- 1) Authorizes the Governor, notwithstanding specified provisions of the California Constitution, and any other provision of state law, to negotiate and conclude compacts with federally recognized Indian tribes to permit certain forms of gambling on Indian lands in California in accordance with federal law.
- 2) Authorizes the compacts to allow the operation of slot machines, and the conduct of lottery games and banking and percentage card games, on California tribal lands subject to approval of the compacts by the Legislature.
- 3) Expressly authorizes slot machines, lottery games, and banking and percentage card games only on tribal lands, subject to those compact terms.

EXISTING LAW:

- 1) The California Constitution provides that the Legislature has no power to authorize lotteries, and requires it to prohibit the sale of lottery tickets in California. Authorizes the California State Lottery, notwithstanding this prohibition.
- 2) Authorizes the Legislature to provide for the regulation of horse races and permit wagering thereon.

- 3) Allows the Legislature to allow cities and counties to permit charitable bingo games.
- 4) Provides the Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

FISCAL EFFECT: Unknown

COMMENTS: On August 23, 1999, the California Supreme Court invalidated Proposition 5, a statutory initiative measure approved by the voters at the November 3, 1998 statewide general election. Proposition 5 permitted gaming on California Indian lands subject to specified conditions. The Court ruled that Proposition 5, by allowing games like 21 or blackjack, and slot machine-style video games, permitted the operation of casinos of the type currently operating in Nevada and New Jersey and thereby violated the California Constitution (Hotel Employees & Restaurant Employees International Union v. Davis (8/23/99), S0748350).

This measure, a constitutional amendment, provides that, notwithstanding prohibitions of the California Constitution, and in state statutes, the Governor may negotiate agreements (compacts) with federally recognized Indian tribes to permit the operation of slot machines and the conduct of lottery games and banking and percentage card games on California Indian lands in accordance with federal law. This measure makes those agreements subject to ratification by the Legislature. Accordingly, this measure expressly permits the operation of slot machines and lottery games, and the conduct of banking and percentage card games on tribal lands subject to the terms of the compacts.

Under the Federal Indian Gaming Regulatory Act of 1988, tribes are allowed to offer slot machines or games like blackjack (collectively known as "Class III" gambling) only after negotiating compacts with states. Former Governor Pete Wilson refused to open negotiations with any tribe that was already offering those games, which he alleged were illegal. Former Governor Wilson negotiated a compact with the Pala Band of Mission Indians for certain forms of gambling, and 10 other tribes also agreed to this compact. Legislation to ratify this agreement has been stayed subject to a referendum on the March 7, 2000, statewide primary election.

News reports indicate that Governor Gray Davis and Indian tribes held many meetings and discussions since the Court invalidated Proposition 5. The Governor and the tribes have been seeking a legislative solution to avoid the shutting down of Indian casinos following the invalidation of Proposition 5. The concept is to submit a legislative measure to the voters for their approval at the March 7, 2000, statewide primary election to validly authorize Indian gaming. This measure would expressly permit the operation of slot machines, and the conduct of lottery games and banking card games on Indian lands in accordance with federal law. This language in effect authorizes Class III gaming on California Indian lands of the type permitted by Proposition 5. According to the author's office, the language was approved by a vote of 32 to 1 by the Indian tribes negotiating with Governor Gray Davis.

In anticipation of Proposition 5 being invalidated, Indian tribes have been circulating for signature an initiative petition to reenact Proposition 5 as a constitutional amendment. The initiative would appear on the March 7, 2000, statewide primary ballot if it qualifies. Signatures are to be submitted starting September 7, 1999.

In order for this measure to appear on the March 7, 2000, statewide primary ballot, it must be adopted by both houses of the Legislature by the end of business of September 9, the currently scheduled start of Interim Recess.

Analysis Prepared by: Romulo I. Lopez / E., R. & C. A. / (916) 319-2094

FN: 0003528





- 2) Amendment. The author proposes the following technical amendment to authorize the operation of percentage card games in addition to banking card games:

On page 2, line 29 and on page 3, line 3, after "banking" insert "and percentage".

Analysis Prepared by: Chuck Nicol / APPR. / (916)319-2081

Date of Hearing: September 8, 1999

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION  
Herb Wesson, Chair  
SCA 11 (Burton and Villaraigosa) – As Amended: September 7, 1999

SENATE VOTE: 31-3

SUBJECT: Indian Gaming

SUMMARY: Constitutional amendment 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 banking card games by federally recognized Indian tribes on Indian lands in California. Specifically, this bill:

Amends Article IV, Section 19 of the State Constitution by adding the following subsection:

(f) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized 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 banking card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts.

EXISTING LAW:

The State Constitution, Article IV, Section 19, provides:

- (a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.
- (b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.
- (c) Notwithstanding subdivision (a) the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.
- (d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.
- (e) The Legislature has no power to authorize, and shall prohibit casinos of the type currently operating in Nevada and New Jersey.

FISCAL EFFECT: None

COMMENTS:

1. Federal Law, the Indian Gaming Regulatory Act (IGRA), governs gambling operations on Indian land by placing gambling activities into three classes and imposing restrictions on Indian tribes who want to conduct these activities. In general, Indian tribes may offer:

- Class I gambling without restriction. Class I gambling includes social games and traditional/ceremonial games.
- Class II gambling is allowed within Indian reservations and is subject to tribal oversight. Class II gambling includes bingo and all card games that are either explicitly authorized by the laws of the state where the tribe is located, or those card games that are not explicitly prohibited by state law and are played at any location in the state. IGRA excludes from the definition of what constitutes Class II gambling all card games in which the operator has a stake (banked) in the amount wagered or the outcome of the game, and electronic games of chance or slot machines.
- Class III gambling activities only if the tribe and the state sign an agreement (referred to as a tribal-state compact) that allows the specific gambling activities. Class III gambling consists of all activities that are not defined as Class I or II gambling. Class III gaming activities may be legally conducted on Indian lands if the tribe is located in a state that permits such gaming for any purpose by any person, organization, or entity. Class III gambling includes lotteries, slot machines or other gambling devices, and horse race wagering. If the state allows any type of Class III gambling and an Indian tribe asks to negotiate a compact for operation of those gambling activities on tribal land, then the state is required to negotiate in good faith for a compact.

Currently, there are 41 Indian gambling operations in California that offer a variety of gambling activities. These include bingo, card games (including a type of blackjack), and electronic (video) gambling devices. To date, California has entered into compacts with four Indian tribes allowing parimutuel wagering on horse racing. In addition, Governor Wilson negotiated a compact with the Pala Band of Mission Indians for other forms of Class III gambling (10 other tribes have also agreed to this compact). Legislation ratifying this agreement was signed into law in 1998 but has been stayed subject to a referendum qualified for the March 7, 2000, statewide primary election.

2. Proposition 5 and the California Supreme Court's decision in *Hotel Employees & Restaurant Employees International Union v. Davis and Cortez v. Davis*. On August 23, 1999, the California Supreme Court ruled that Proposition 5, the Tribal Government and Self Sufficiency Act of 1998, was unconstitutional. Proposition 5 contained a framework regarding terms for a model tribal-state compact that would have been available to all federally recognized tribes in California, and would have authorized Class III gambling on Indian lands in California pursuant to federal law. The proposition would have allowed signatory tribes to offer gaming terminals (provided they were operated using a player' pool prize system, as defined), any card games that were actually played in a tribal gaming facility prior to January 1, 1998 (again using a players' pool prize system), any lottery-based game, and off-track wagering (based on the terms of previous tribal-state compacts on this subject). The court concluded that the terms of the proposition were in conflict with the anti-casino provisions of Section 19 (e) of the State constitution, and entry into the model compacts contained within proposition 5 was beyond the legislative power under the law of California.

REGISTERED SUPPORT / OPPOSITION:

Support

None registered

Opposition

None registered

Analysis Prepared by: George Wiley / G. O. / (916) 319-2531

Date of Hearing: September 7, 1999

ASSEMBLY COMMITTEE ON ELECTIONS, REAPPORTIONMENT  
AND CONSTITUTIONAL AMENDMENTS

Edward Vincent, Chair

SCA 11 (Burton) – As Introduced: August 23, 1999

AS PROPOSED TO BE AMENDED IN COMMITTEE – RN9922783

SENATE VOTE: Vote Not Relevant

SUBJECT: Gambling: Indian Gaming Compacts.

SUMMARY: Constitutional amendment authorizes the Governor to enter into compacts with Indian tribes to allow certain forms of gambling on Indian lands in California, subject to ratification of those compacts by the Legislature. Specifically, this bill:

- 1) Authorizes the Governor, notwithstanding specified provisions of the California Constitution, and any other provision of state law, to negotiate and conclude compacts with federally recognized Indian tribes to permit certain forms of gambling on Indian lands in California in accordance with federal law.
- 2) Authorizes the compacts to allow the operation of slot machines, and the conduct of lottery games and banking card games, on California tribal lands subject to approval of the compacts by the Legislature.
- 3) Expressly authorizes slot machines, lottery games, and banking card games only on tribal lands, subject to those compact terms.

EXISTING LAW:

- 1) The California Constitution provides that the Legislature has no power to authorize lotteries, and requires it to prohibit the sale of lottery tickets in California. Authorizes the California State Lottery, notwithstanding this prohibition.
- 2) Authorizes the Legislature to provide for the regulation of horse races and permit wagering thereon.
- 3) Allows the Legislature to allow cities and counties to permit charitable bingo games.
- 4) Provides the Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) On August 23, 1999, the California Supreme Court invalidated Proposition 5, a statutory initiative measure approved by the voters at the November 3, 1998 statewide general election. Proposition 5 permitted gaming on California Indian lands subject to specified conditions. The Court ruled that

Proposition 5, by allowing games like 21 or blackjack, and slot machine-style video games, permitted the operation of casinos of the type currently operating in Nevada and New Jersey and thereby violated the California Constitution.

- 2) This measure, a constitutional amendment, provides that, notwithstanding prohibitions of the California Constitution, and in state statutes, the Governor may negotiate agreements (compacts) with federally recognized Indian tribes to permit the operation of slot machines and the conduct of lottery games and banking card games on California Indian lands. This measure makes those agreements subject to ratification by the Legislature. Accordingly, this measure expressly permits the operation of slot machines and lottery games, and the conduct of banking card games on tribal lands subject to the terms of the compacts.
- 3) News reports indicate that the Governor and Indian tribes held many meetings and discussions since the Court invalidated Proposition 5. The Governor and the tribes have been seeking a legislative solution to avoid the shutting down of Indian casinos following the invalidation of Proposition 5. The concept is to submit a legislative measure to the voters for their approval at the March 7, 2000, statewide primary election to validly authorize Indian gaming. This measure would expressly permit the operation of slot machines, and the conduct of lottery games and banking card games on Indian lands in accordance with federal law. This language in effect authorizes gaming on California Indian lands of the type permitted by Proposition 5. According to the author's office, the language was approved by a vote of 32 to 1 by the Indian tribes negotiating with the Governor.
- 4) In anticipation of Proposition 5 being invalidated, Indian tribes have been circulating for signature an initiative petition to reenact Proposition 5 as a constitutional amendment. The initiative would appear on the March 7, 2000, statewide primary ballot if it qualifies. Signatures are to be submitted starting September 14, 1999.
- 5) In order for this measure to appear on the March 7, 2000, statewide primary ballot, it must be adopted by both houses of the Legislature by the end of business of September 9, the currently scheduled start of Interim Recess.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None one file

Analysis Prepared by: Romulo Lopez / E., R. & C. A. / (916) 319-2094

**SENATE RULES COMMITTEE**

SCA 11

Office of Senate Floor Analyses

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THIRD READING

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Bill No: SCA 11  
Author: Burton (D)  
Amended: As introduced  
Vote: 27

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WITHOUT REFERENCE TO COMMITTEE OR FILE

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**SUBJECT:** Gambling

**SOURCE:** Author

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**DIGEST:** This measure makes technical, non-substantive changes to the Constitutional provisions relating to regulation of horse racing and horse racing meeting.

**ANALYSIS:** The California Constitution provides that the Legislature has no power to authorize lotteries, and shall prohibit the sale of lottery tickets in the state, but specifically authorizes the establishment of the California State Lottery. The California Constitution provides that the Legislature may provide for the regulation of horse racing and wagering on the results and may authorize cities and counties to provide for bingo games, but only for charitable purposes. The California Constitution also provides that the Legislature has no power to authorize, and shall prohibit, casinos of the type currently operating in Nevada and New Jersey.

**FISCAL EFFECT:** Fiscal Com.: No

DLW:sl 8/23/99 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

SUPPORT/OPPOSITION: NONE RECEIVED

\*\*\*\* **END** \*\*\*\*

## SCA 11 STATEMENT

This morning, 52 California Indian tribes signed gaming compacts with the State of California, bringing, I hope, peace and security to tribal gaming operations.

These compacts allow tribes to operate the types of machines and card games they currently offer in tribal casinos.

The tribes now need SCA 11 to secure this right.

It gives them, under the constitution, the rights they sought under Proposition 5. It solves the problems with Proposition 5 that led the Supreme Court to declare it unconstitutional two weeks ago.