

BILL ANALYSIS

Bill No: SB

1485

SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION
Senator Roderick D. Wright, Chair
2009-2010 Regular Session
Staff Analysis

SB 1485 Author: Wright
As Amended: June 22, 2010
Hearing Date: June 29, 2010
Consultant: Art Terzakis

SUBJECT

Internet Gambling

DESCRIPTION

SB 1485 is an urgency measure that enacts the "Internet Gambling Consumer Protection and Public-Private Partnership Act of 2010" for the stated purpose of authorizing, implementing, and creating a legal system for intrastate Internet gambling in order to protect the millions of Californians who gamble online, allow state law enforcement to ensure consumer protection, and to keep the revenues generated from Internet gaming in California. Specifically, this bill:

1. Creates a contractual framework to ensure that authorized games are only offered for play in a manner that is consistent with federal and state law.
2. Authorizes the Department of Justice (DOJ), pursuant to a request for proposal (RFP) seeking hub applicants issued consistent with the terms and conditions in this chapter, to enter into a 20-year contract with up to three hub operators that meet the background requirements and demonstrate the technical expertise to ensure that wagering authorized by this chapter is only offered to registered players who are physically present within the borders of California at the time of play and who are 21 years of age or older.
3. Stipulates that factors to be considered in evaluating

hub applicants shall include, but are not limited to, quality, competence, experience, past performance, efficiency, reliability, financial viability, durability, adaptability, timely performance, integrity, security, and the consideration promised to the state, including a lump-sum cash offer, and increasing the percentage of revenue sharing with the state, up to, and including, 20% of the hub operator's gross revenues.

4. Stipulates that DOJ shall establish scoring parameters for evaluation of all bid proposals and requires that DOJ's selection criteria for hub applicants give preference to proposals that meet the following criteria: (a) are most responsive; (b) are most qualified; (c) provide the most revenue to the state; (d) have a managing partner or chief executive officer that is an owner-licensee of a card club or an official of a federally recognized Indian tribe with a tribal-state compact, or a California licensed horseracing association; (e) are eligible to participate in the state's small business program or the Disabled Veteran Business Enterprise Program; and, (f) propose to locate in a distressed area, enterprise zone, or closed military base area, as specified.
5. In recognition of the initial investments and efforts required to start up this business venture, and to ensure hub operators are in the best position to compete with offshore operators and to be successful, requires a hub operator to remit to the State Treasurer on a monthly basis that percentage of its gross revenues as agreed in the contract between the state and the hub operator, but no less than 10% of its gross revenues.
6. Stipulates that a person submitting a proposal to become a hub operator, and all subcontractors of that person, must be residents of California and have all hub facilities and bank accounts related to intrastate online gambling in California. Provides that, at all times, a hub applicant or hub operator must be domiciled in California and be in good standing with the Secretary of State and Franchise Tax Board. Also, makes it explicit that a person who is a hub operator that is operating lawfully in another state is eligible to become a hub operator in California.

7. Furthermore, requires hub applicants at the time of submitting a proposal to: (a) post a bond, in an unspecified amount, payable to the state (to be returned if the hub applicant is found unsuitable); and (b) submit nonrefundable filing charges to the State for costs incurred by DOJ and the California Gambling Control Commission (CGCC) in evaluating the suitability of the applicant.
8. Provides that any federally recognized Indian tribe that submits a bid shall waive its sovereignty for purposes of evaluation of the bid. The proposal shall affirmatively declare that the applicant is subject to the state's jurisdiction as set forth in this chapter. Any contract between the state and a federally recognized tribe to offer games as a hub operator shall include that tribe's affirmative agreement to be subject to the jurisdiction of the state for all purposes under this chapter.
9. Provides that CGCC will issue a finding of suitability, per specified criteria that mirror the criteria in the Gambling Control Act. Additionally, makes it explicit that the CGCC shall find both an owner-licensee of a card club or a federally recognized tribe with a tribal-state gaming compact suitable to become a hub operator. Also, establishes criteria for unsuitability, as specified, including that a hub applicant has offered or allowed games to be played over the Internet for compensation in this state since the passage of the federal Unlawful Internet Gambling Enforcement Act (UIGEA) of 2006 .
10. Requires all games offered for play to be approved by DOJ, including game rules and betting rules, before they are offered to registered players.
11. Requires all subcontractor and employees of the hub operator to be subject to background review and approval by CGCC and DOJ and provides for confidentiality of hub contractors' and subcontractors' proprietary information.
12. Makes it explicit all registered players must be physically located in the State of California at the time of gambling and no registered play may be less than 21 years of age. Also, establishes procedures for verifying

that a person is 21 years of age or older.

13. Requires hub operators to deploy controls and technology to ensure games are fair and prevent fraud, cheating through collusion, and robotic play, among other things. Also, stipulates that the hub operator shall not permit registered players to make payments by money order or cash.
14. Permits the hub operator to enter into an agreement with a third party for marketing, or any other purpose consistent with this Act, including, but not limited to, displaying the name of a marketing partner on a screen viewed by registered players.
15. Requires the hub operator to provide information regarding problem gambling on the Web site and to post on the player's screen information related to the amount of time the player has been playing during the current session, his or her winnings or losses during the current session, and periodically requires the player to confirm that he or she has read alerts.
16. Requires the hub operator to establish a 24 hour toll free help line and requires the CGCC to provide, by regulation, a process for the hub operator to exclude from play any person who has filled out an Online Self-Exclusion Form.
17. Ensures that all applicable state agencies will have unfettered access to the premises and records of each hub operator to ensure strict compliance with state law concerning credit authorization, account access, and other security provisions.
18. Requires the hub operator to establish a book of accounts and to regularly audit all of its financial records and reports and be retained in a manner by which it may be accessed by the state agencies online.
19. Makes it explicit that both the accounts of the hub operator and its segregated registered player accounts must be held in financial institutions located in the State of California.
20. Provides that the hub operator shall have discretion to

use the expertise of personnel not physically present in

the state when necessary to protect registered players and state interests, including, but not limited to, for the purposes of diagnosing and addressing technological problems, investigating fraud and collusion, and supervising software and configuration changes.

21. Authorizes DOJ, after any hub operator has been providing authorized games for five years, and at any time thereafter, to renegotiate the terms and conditions of the contracts with the hub operators, based in large part on the report and recommendations of the Bureau of State Audits with respect to all aspects of the hub operator's operations, obligations, and economics, and offer existing hub operators the opportunity to agree to these modifications and continue in partnership with the state, subject to the statutory approval of those terms and conditions by the Legislature.
22. Provides that, if the Legislature statutorily approves the new contract terms and conditions related to the rights and obligations of the hub operators, the existing hub operators may continue in partnership with the state. If the existing hub operators decline to accept the new terms and conditions, DOJ may commence a new RFP process to award contracts to new hub operators.
23. Provides that, if DOJ recommends no changes to the terms and conditions of the contract, or if the Legislature does not approve any changes to the terms or conditions of the contract, the hub operators shall continue to operate under the existing terms and conditions of the contract, and the contract shall remain in force for the remainder of the term of the contract, or until those terms and conditions are subsequently renegotiated and are approved by the Legislature.
24. Authorizes DOJ to issue an RFP seeking additional hub applicants should the Legislature determine to increase the number of hub operators. Also, requires that each hub operator comply with federal and state laws and regulations.
25. Distributes contractual consideration collected by the state from each hub operator to the Internet Gambling Fund, created by this bill, which shall be administered

by the Controller subject to annual appropriation by the Legislature, and which shall not be subject to the formulas established by law directing expenditures from

the General Fund, for the actual costs of contractual oversight, consumer protection, state regulation, and problem gaming programs, and other purposes as the Legislature may decide.

26. Preserves the authority of the Legislature to opt out of, or opt into, any federal framework for Internet gambling, or to enter into any compact with other states to provide Internet gambling.
27. Preempts any city, county, or city and county from passing any law or ordinance regulating or taxing any matter covered in this Act as a matter of statewide concern.
28. Require CGCC, in consultation with DOJ, the State Treasurer, and Franchise Tax Board, to issue an annual report to the Legislature describing the state's efforts in implementing this bill.
29. Requires the Bureau of State Audits, at least 3 years after the commencement date of any hub operator's contract with the state, but no later than 4 years after that date, to issue a report to the Legislature detailing the implementation of the bill, and, to make recommendations on the terms, conditions and economic and operational impacts of the contract and consideration to the state. The State Auditor shall also advise the Legislature whether continuation of the moratorium on state gambling is justified, given statewide competition with legalized Internet gambling.
30. Makes various legislative findings and declarations and defines numerous terms applicable to this Act and contains an urgency clause to take effect immediately.

EXISTING LAW

The Gambling Control Act of 1997 established the California Gambling Control Commission which has licensing jurisdiction over the operation of card clubs and of all persons having an interest in the ownership or operation of

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card clubs.

Article IV, Section 19, subdivision (e) of the California

Constitution permits Indian tribes to conduct and operate slot machines, lottery games, and banked and percentage card games on Indian land if (1) the Governor and an Indian tribe reach agreement on a compact; (2) the Legislature approves the compact; and (3) the federal government approves the compact.

Existing federal law, the Federal Indian Gaming Regulatory Act (IGRA) of 1988, established the jurisdictional framework that presently governs Indian gaming. Under IGRA, before a tribe may lawfully conduct class III gaming (games commonly played at casinos, such as slot machines and black jack), the following conditions must be met: (1) The particular form of class III gaming must be permitted in the state; (2) The tribe and the state must have negotiated a compact that has been approved by the Secretary of the Interior; and (3) The tribe must have adopted a tribal gaming ordinance that has been approved by the chairman of the National Indian Gaming Commission.

Existing federal law, the Unlawful Internet Gaming Enforcement Act of 2006 (UIGEA), prevents U.S. financial institutions from processing payments to online gambling businesses. The UIGEA does exempt three categories of transactions: intra-tribal, intrastate, and interstate horse racing. The UIGEA defines intrastate transactions are bets or wagers that are made exclusively within a single state, whose state laws or regulations contain certain safeguards regarding such transactions, expressly authorize the bet or wager and the method by which the bet or wager is made, and do not violate any provisions of applicable federal gaming statutes.

Existing California law, The Gambling Control Act of 1997 established the California Gambling Control Commission to regulate legal gaming in California and the Bureau of Gambling Control within the Department of Justice to investigate and enforce controlled gambling activities in California. It prohibits gambling in a city or county that does not have an ordinance governing certain aspects of the operation of gambling establishments, including the "hours

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of operation" of gambling establishments.

Existing law provides that, until January 1, 2015, if a local jurisdiction had not authorized legal gaming within its boundaries prior to January 1, 1996, then it is prohibited from authorizing legal gaming. Furthermore, until January 1, 2015, the California Gambling Commission

is prohibited from issuing a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the division prior to September 1, 2000.

Existing law authorizes and defines "advance deposit wagering" as a form of parimutuel wagering in which a person "establishes an account with a board-approved betting system or wagering hub where the account owner provides 'wagering instructions' authorizing the entity holding the account to place wagers on the owner's behalf."

"Gambling operation" means exposing for play one or more controlled games that are dealt, operated, carried on, conducted, or maintained for commercial gain.

Existing law authorizes a licensed gambling establishment to contract with a third party for the purpose of providing proposition player services.

Existing law provides that a "banking game" or "banked game" does not include a controlled game if the published rules of the game feature a player-dealer position and provides that this position must be continuously and systematically rotated amongst each of the participants during the play of the game.

BACKGROUND

Purpose of SB 1485: The author notes that on February 9, 2010, the Senate Committee on Governmental Organization held an informational hearing titled, Examining the Public Policy and Fiscal Implications Related to the Authorization of Intrastate Internet Poker. The purpose of the hearing was to help the Legislature establish a policy framework from which it can evaluate any proposal seeking to authorize online poker in California. It was a nine and one-half hour hearing that raised a number of policy issues, some of which are unique to California, and helped

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educate the Legislators about online poker. It was a very informative and successful hearing.

The author states that after many months of analyzing the risks posed by unregulated Internet gambling he has concluded that the best way to protect consumers from illegal online gaming is through legalization. Prohibiting online gambling or pretending it does not exist in an interconnected world is simply not realistic. The author

cites several reports and studies which reflect on the fact that nationwide individuals in this country wager well over \$10 billion annually on Internet gambling and that figure keeps growing.

According to recent studies more than 700,000 teens and young adults gamble online at least once a month and more than a million Californians play poker on the Internet every week. The result of the current U.S. legal approach to Internet gambling is to force millions of consumers to offshore sites out of the reach of U.S. courts and regulators, exposing them to significant risks without effective legal recourse. Seeing hundreds of millions of dollars being siphoned from California's economy and into the hands of off-shore interests has inspired the author to introduce this piece of legislation which would legalize and regulate Internet gambling within California's borders (intrastate) for California adults.

The author states that this bill is intended to extend consumer protections to Californians who play online poker, ensure that the revenues from Internet gaming are realized in California, and to protect the public interest by ensuring that all aspects of Internet gaming are regulated and controlled by the state (Department of Justice). The author points out that this bill will help offset the negative impacts of gambling, spur a new industry in California which will provide economic inducements to California's economy, including jobs. Furthermore, the author notes that this bill will ensure games are fair, are played by persons of legal age who are located in California, that players have recourse to resolve disputes, that the revenues stay in the state to support programs and services, and that the negative impacts of gambling are addressed, as well. Additionally, the author emphasizes that this bill authorizes intrastate Internet "gambling" and provides that

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other Class II games, not just poker, can be offered by the hub operators as long as they are approved by the Department of Justice. Such a provision is intended to give the state and the hub operators flexibility into the future to maximize the potential benefits to the state of Internet gambling. The author references the California Lottery and the fact that it was restricted by the Proposition that established it in 1984 as a means of restricting its growth. The author states, "Looking back, that provision was a mistake in that the Lottery is prohibited from using modern technology to generate revenue

for the state." This bill learns from that mistake and leaves open the option for games other than poker to be played which will create broader appeal to a more diverse customer base thus allowing the state to capture more revenue.

The author notes that over the past year numerous parties have expressed concern regarding any proposal to authorize by statute a form of online poker and its impact on Tribal-State Gaming Compacts. With that in mind, the author asked Legislative Counsel the following questions:

Question #1: Would the online play by California residents located within California of various poker games provided by offshore providers located outside of the United States abrogate the exclusive right of Indian tribes to operate gaming devices under the provisions contained in the 1999 Compacts or the 2004 or 2006 Compacts Amendments? On June 21, 2010, Legislative Counsel opined as follows, "The state has not authorized any play of Internet poker within the state, by statute, constitutional provision, or otherwise. At present, the play by California residents located within California of Internet poker provided by offshore providers occurs in the absence of statutory or constitutional authorization?Accordingly, the online play by California residents located within California of various poker and poker-like games provided by offshore providers today does not

implicate the exclusivity provisions contained in the 1999 Compacts or the 2004 or 2006 Compact Amendments because the state has not authorized any play of Internet poker, within the state."

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Question #2: Would authorization by the State of California of the play of Internet poker within the state's borders abrogate the exclusive right of Indian tribes to operate gaming devices under the provisions contained in the 1999 Compacts or the 2004 or 2006 Compact Amendments? On June 21, 2010, Legislative Counsel opined as follows, "Internet poker would provide for play of poker, according to the rules currently authorized for play at card clubs in California, against other players on a device that allows access to the Internet, and does not contemplate play with or against the

device?Because Internet poker would be conducted on the same basis as the forms of poker authorized for play at card clubs, we think sufficient elements of skill would be preserved in the play of Internet poker...Accordingly we think a court would conclude that Internet poker is not a slot machine because of the predominance of the element of skill, and therefore, not a 'gaming device' for purposes of the exclusivity provisions contained in the 1999 Compacts or the 2004 or 2006 Compact Amendments. Accordingly, it is our opinion that, if the Legislature authorized by statute Internet poker within the state's borders, that authorization would not abrogate the exclusive right of Indian tribes to operate gaming devices under the provisions contained in the 1999 Compacts or the 2004 or 2006 Compact Amendments."

Question #3: Would personal computers used by Internet poker players or network components and software used by an Internet hub to provide Internet poker to remote players so that they can compete with one another constitute a 'gaming device' for purposes of the 1999 Compacts or the 2004 or 2006 Compact Amendments if the Legislature by statute were to authorize Internet poker? On June 21, 2010, Legislative Counsel opined as follows, "Internet poker does not fall within the definition of a 'gaming device'?Among other things, , Internet poker does not contemplate play against the device allowing access to the Internet, the game played is not a banked game, and the game involves elements of skill?Accordingly, the play of Internet poker on a device that allows access to the Internet, including

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a personal computer used by Internet poker players, or network components and software used by an Internet hub to provide Internet poker to remote players so that they can compete with one another would not constitute a 'gaming device' as defined in section 2.6 of the 1999 Compacts or for purposes of the 2004 or 2006 Compact Amendments."

Arguments in Support: Bay 101 Card Club writes, "Bay 101 does not perceive intrastate online gaming as a threat because we compete with offshore online operators today?Bay 101 believes that adopting the framework for intrastate Internet gaming in [this bill] presents multiple opportunities for the State, Native Americans, and card

clubs. Bay 101 summarizes its position as follows, "(1) Internet gaming is here to stay and will grow both in terms of the number of players and the amount being wagered regardless of whether the Legislature acts or not; (2) Federal law requires that any framework established by the Legislature protects players and minors; (3) Consistent with the framework detailed in [this bill], the State should seek financially, technically and legally qualified hubs to offer Internet games in a secure environment to meet the goals defined by the Legislature; and, (4) The public/private partnership envisaged by [this bill] offers the best hope for success in California - that competing hubs here will be able to compete with offshore providers for players and revenues."

Bay 101 notes that it sees three potential opportunities from [this bill] that would directly benefit any brick and mortar gaming provider:

First, Bay 101, "Intends to compete for a hub contract with partners which have the technical expertise to offer games fairly and provide security and transparency necessary in any Internet gaming environment?We believe that the non-discriminatory criteria in [this bill] is fair, although we hope that the scoring factors and process will be tightened as the Legislature considers [this bill]? Bay 101 is prepared to submit a detailed proposal and compete for a hub on the merits of its application if the basic framework in [this bill] is adopted."

Second, "[this bill] gives Bay 101, and any other card club or Native American casino, the ability to contract with hub

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operators to sponsor tournaments?Thus, any card club - or for that matter any other entity - will be able to participate in online gaming activity without having to expend the capital necessary to construct and operate a hub."

Third, Bay 101, "Believes that what's good for gaming generally will accrue to the benefit of our bricks and mortar card club?This belief is rooted in our competitive philosophy. For example, while others have encouraged the Legislature to extend the moratorium on expansion of bricks and mortar establishments, Bay 101 believes that the moratorium is an artificial barrier which prevents the market from evolving rationally. In the same vein, the longer the Legislature waits to enact a framework for Internet gaming, the more difficult it will become for

online competition to evolve in California?[this bill] can achieve for California that which has occurred in jurisdictions where legal frameworks for online gaming have been adopted (e.g., Sweden, Italy and France). The evidence clearly shows that, given the choice, online players will migrate from unsecured to legal, regulated sites."

CyberArts, an enterprise software company that designs, develops, and markets the foundation Universal Gaming Platform for legal, regulated, casino gaming operators worldwide writes, "The legalization and regulation of poker in California will provide a safe environment for online poker enthusiasts who now risk prosecution and fraud by playing at illegal offshore sites. In addition to the consumer protection it will bring to Californians, we also support the legalization of online poker because of the jobs and tax revenue it will create."

Vista Global Media, Inc., a company that provides e-gaming solutions to clients around the world and headquartered in Southern California writes, "Online poker is a game of skill currently played by some two million Californians?Vista Global supports [this bill] because regulated online poker will provide a safe U.S. environment for online poker enthusiasts who now can play only at offshore sites. Vista Global, "Believes [this bill] is an important approach to generating revenue and jobs for the state while providing domestic regulatory protections for California players. More important, [this bill] encourages partnerships among California technology companies and

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existing land-based gaming entities in the state to ensure the success of legalized online poker."

Quova, Inc., an international company based in Mountain View, CA which creates systems that enable online businesses to instantly identify where a visitor to their Web site is geographically located writes, "Geolocation technology allows companies to use the Internet as a distribution channel when contracts or laws restrict them from doing business in certain geographic locations. Quova has had great success in countries around the world of accurately locating the city, country and the zip code of online poker players and determining if it is valid to play in that jurisdiction. We feel confident that the technology can support the requirements of [this bill]."

Paddy Power, a 21 year-old Irish business that offers multi-channel gambling through shops, telephones and the

Internet writes, "If rapidly raising revenue for the state is one of the primary purposes of the legislation, then the competitive bidding system proposed in the legislation is unquestionably the best structure. We also point out that allowing non-California companies to compete for the license will ensure that the licenses are optimally sold by maximizing the pool of bidders. Additionally, we can foresee the birth of a new online gaming technology business in California with associated employment creation.

It is our belief that the legislation should mandate three licenses, as this will ensure effective competition, which is good for consumers, while making any successful bidder confident that the license will be a valuable concession."

Arguments in Opposition: The Barona Band of Mission Indians write, "[This bill] requires Indian tribe to submit proposals for the operation of a hub to 'waive sovereignty for the purpose of evaluation' of the proposal and 'affirmatively declare that the hub applicant [tribe] is subject to the state's jurisdiction...' It also requires a tribe entering into a contract with the state, to operate a hub, to be 'subject to the jurisdiction of the state for all purposes under this chapter.' We believe this is overbroad and represents an unreasonable intrusion on tribal sovereignty."

The California Tribal Business Alliance (CTBA) writes, "Our opposition is grounded in the fact that inadequate due diligence has occurred to fully examine the policy

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implications of intrastate Internet gambling on the citizens, businesses, and governments in California." CTBA also writes, "[This bill] may conflict with the federal Wire Act of 1961, as well as, the California Constitution and the exclusivity provisions contained in Tribal-State Gaming Compacts. Until these legal ambiguities are examined and clarified, we believe it is unwise and potentially fiscally irresponsible to pursue this policy."

The Tribal Alliance of Sovereign Indian Nations (TASIN) writes, "By legalizing a potentially broad spectrum of online gaming, [this bill] could significantly and permanently expand and alter the landscape of gaming in California, and undermine the foundation upon which many tribal and State government decisions and financial commitments have been premised. Numerous California tribes have entered into long-term tribal-state compacts that will provide billions of dollars in funding for critical tribal programs, healthcare, infrastructure, housing, educational services, elder care - all without government assistance,

as well as providing significant revenues to the State, surrounding local governments and non-gaming tribes."

The California Nations Indian Gaming Association (CNIGA) writes, "We believe [this bill] will allow out of state and overseas operators to come in and run sites to the detriment of tribal gaming operations and California. Tribes have spent millions of dollars and have worked hard to create and maintain well regulated and safe gaming operations for consumers in their communities. Blindly giving licenses to interests away from our local communities takes away local dollars and jobs from hard working Californians."

Poker Players' Alliance (PPA) writes, "[This bill] will not attract the best qualified and most experienced hub operators... the measure imposes a variety of operational financial barriers and preferences that will discourage or bar nontraditional telecommunications, software, and out-of-state gaming companies from applying as hub operators or subcontractors. Rather than leveraging proven Internet gaming models with recognizable brands and sizable player bases, this bill sets out to 'reinvent the wheel' and assumes that California players will readily migrate to unfamiliar new sites." PPA also states, "[This bill] makes it a misdemeanor punishable by up to a year in county jail

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to play any game on an unauthorized site?Criminalizing harmless recreational conduct that typically takes place in the privacy of one's home and cannot be practically enforced undermines public respect for all laws. Making it a crime to visit 'unauthorized' gaming website is also unnecessary?.Poker players will naturally gravitate to government-regulated sites where they can be assured of fair play and secure financial transactions."

The Coalition of Card Clubs (Hollywood Park Casino, Commerce Casino, Bicycle Casino, Hawaiian Gardens Casino) and the Morongo Band of Mission Indians writes, "Online poker should be developed on an intrastate basis that ensures wagering activity; its revenue and economic benefits should accrue to the state of California and to California businesses. We believe what plays in California should stay in California. By licensing foreign operators and Las Vegas gaming interests, this bill allows money to leave the state instead of helping California's economy. Ownership and investment in the wagering hubs should be restricted to currently licensed and regulated gaming operators in the state - card club owners and California

tribal governments. This keeps online gaming revenue in California; assures the state of gaming management with a proven track record of game and operator integrity; and delivers a reliable program for the prevention of problem gambling and illegal participation by minors."

The California Coalition Against Gambling Expansion (CCAGE) writes, " Any attempt to legalize internet gambling will probably run afoul of federal law and U.S. Department of Justice regulatory interpretations, given the 'world wide' reach of the internet (including not only those on the playing side, but how and where the hubs and technologies are utilized and domiciled)?[this bill] represents the 'Mother of All Expansions,' turning every home computer, school laptop, I-phone, I-pad and most cell phones into a gambling device, and every home, dorm-room, apartment and Wi-Fi business into a casino."

Additional Concern: The Thoroughbred Owners of California (TOC) writes, "We appreciate the fact that [this bill] creates a fairly level playing field for entities willing and able to compete for state contracts to provide related technology and operational support. It is also encouraging to see [this bill] acknowledge that horse racing

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associations are already successfully providing web-based wagering in California. The language allowing a small preference for horse racing in the contracting process is essential to keep us on even footing with casinos and card clubs in the competition for hub contracts? "[This bill] will dramatically alter the entire landscape of California gaming. California's \$4 billion per year horse racing industry is already disadvantaged in its effort to compete with other states for horses/purses as a result of the state's extension of exclusive rights for casino-style gaming to Indian tribes. The legislature should ensure that Internet gaming included in [this bill] is carefully constructed to avoid unintentional consequences for an industry that has long provided local communities with environmentally attractive settings, quality entertainment, good jobs and reliable tax revenues."

LECG, Inc. Study: The author provided committee staff with a June 2010 report by LECG, Inc. (authored by Jose Alberro, Ph.D. and Ronald H. Schmidt, Ph.D.) and titled, "A Multi-Hub Model for Legalized Internet Poker in California: Fiscal and Economic Implications," which found that, "[This bill] has the potential to develop significant revenues for the State: between \$2.4 and \$6.1 billion over the period

2012 to 2020. A key unknown in the estimate is the extent to which revenues currently flowing offshore to illegal sites will be captured by the legal California hubs. If recapture is high, the revenues will be at the top end of estimate."

The report also found that "California needs to consider thoroughly its share of revenues - if the State's share is 20%, a model with up to three hubs is likely to generate sufficient profits to attract technically and financially qualified vendors, who will have strong incentives to recapture gamers currently playing offshore. If the State's share rises to as much as 40%, however, operators may face losses before turning a profit. Reduced 'yield' from each player will cause hubs to invest less in attracting new players and trying to recapture accounts currently playing on illegal sites."

Furthermore, the report found, "Competition by up to three hubs will create new jobs for the State. We estimate that the number of incremental jobs can be as high as 4,800 - many of which are likely to be high paying - with major

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gains for the State in marketing and advertising sectors...Legalization of Internet poker will have significant impact on total gross gaming revenue paid by Californians to hub operators. By 2020, we project that Internet annual poker gross gaming revenues from California residents will range from \$1.7 to \$2.1 billion."

Additional Data Relative to Scale and Scope of Internet poker in California: Global Betting and Gaming Consultants (GBGC) estimate 778,000 active real-money online poker player accounts (players often have more than one account) in California. GBGC estimates that there will be 1.04 million accounts in California in 2012.

H2 Gambling Consultants estimates that there are 400,000 active real-money online poker players in California. H2 estimates there will be 833,000 real-money online poker players in California in 2012.

The amounts of gross gambling yield (GGY) currently being generated and realized by offshore operators from Internet poker in California is estimated to be between \$309 million (GBGC) to \$448 million (H2). The GGY generated by Internet poker in California is expected to be between \$589 million (GBGC) to \$1.1 billion (H2) in 2012.

Unlawful Internet Gambling Enforcement Act (UIGEA) of 2006:

In October 2006, Congress passed the Safe Port Act, to increase the security of U.S. ports. Imbedded within the language of that bill was a section called the Unlawful Internet Gaming Enforcement Act (UIGEA) of 2006, which prohibits a person engaged in the business of betting or wagering from knowingly accepting specified methods of payment, including credit, electronic fund transfers, and checks, in connection with the participation of another person in unlawful Internet gambling. In other words, the bill made it illegal for banks, credit card companies, or similar U.S. institutions to collect on a debt incurred on an online gambling site, thus eliminating any assurances for gamblers that they will actually collect on any winnings.

UIGEA does exempt three categories of transactions, (i) intratribal (within the Indians lands of a single tribe or between 2 or more tribes as authorized by the Indian Gaming Regulatory Act (IGRA)), (ii) intrastate, and (iii)

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interstate horseracing.

As defined in the Act, intrastate transactions are bets or wagers that are made exclusively within a single state, and whose state laws or regulations: (1) Contain certain safeguards regarding such transactions (age and location verification requirements, and data security standards designed to prevent access to minors and persons located outside of that state); (2) Expressly authorize the bet or wager and the method by which the bet or wager is made; and, (3) Do not violate any provisions of applicable federal gaming statues (e.g., Interstate Horseracing Act, Professional and Amateur Sports Protection Act, Gambling Devices Transportation Act, and IGRA).

The exemption in UIGEA is consistent with the idea that state governments have the primary responsibility for determining what forms of gambling may legally take place within their borders, a right given to them under the 10th amendment of the U.S. Constitution.

SUPPORT: As of June 25, 2010:

Bay 101
CyberArts
Paddy Power
Quova, Inc.

Vista Global Media, Inc.

OPPOSE : As of June 25, 2010:

Barona Band of Mission Indians
Bicycle Casino
California Coalition Against Gambling Expansion
California Nations Indian Gaming Association
California Tribal Business Alliance
Commerce Casino
Hawaiian Gardens Casino
Hollywood Park Casino
Morango Band of Mission Indians
Poker Players Alliance
Tribal Alliance of Sovereign Indian Nations
Yocha Dehe Wintun Nation

FISCAL COMMITTEE: Senate Appropriations Committee

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