

AMENDED IN SENATE JUNE 29, 2009

AMENDED IN SENATE JUNE 15, 2009

AMENDED IN ASSEMBLY MAY 6, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1443**

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**Introduced by Assembly Member Huffman**

February 27, 2009

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An act to add Section 12012.87 to the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 1443, as amended, Huffman. Gaming compacts: local support.

The federal Indian Gaming Regulatory Act provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature.

This bill would ~~authorize~~ *require* the Governor to consider the presence or absence of local support when negotiating a tribal-state gaming compact to allow class III gaming on Indian lands, as specified. The bill would include a related statement of legislative findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

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

8 (b) IGRA requires the state to negotiate in good faith for the  
9 conclusion of tribal-state gaming compacts with Indian tribes that  
10 request negotiations when those tribes have eligible Indian lands  
11 located in the state.

12 (c) In 1998, California voters approved Proposition 5, a statutory  
13 measure designed to allow for the operation of slot machine and  
14 house banked card gaming by California Indian tribes on Indian  
15 lands in accordance with federal law. In 1999, the California  
16 Supreme Court held that most of the provisions enacted by  
17 Proposition 5 were unconstitutional.

18 (d) In 2000, California voters approved Proposition 1A,  
19 amending the California Constitution to authorize the Governor  
20 to negotiate and conclude compacts, subject to ratification by the  
21 Legislature, for the operation of slot machines, and for the conduct  
22 of lottery games and banked and percentage card games by  
23 federally recognized Indian tribes on Indian lands in California in  
24 accordance with federal law.

25 (e) During the campaigns to approve Propositions 5 and 1A,  
26 proponents assured California voters that Indian lands were mainly  
27 in remote, rural areas of the state and that approval of these  
28 measures would not result in tribal casinos being located in urban  
29 areas.

30 (f) In the general election of 2004, two initiative measures,  
31 Propositions 68 and 70, that would have expanded gaming activities  
32 in urban areas were placed before the California voters.

33 (g) Proposition 68 was defeated with 83.8 percent of the  
34 electorate voting against it and Proposition 70 was defeated with  
35 76.3 percent of the electorate voting against it.

36 (h) There is increasing public concern over the location,  
37 expansion, and impact of tribal gaming on nontribal lands in  
38 California.

1 (i) There are over 100 federally recognized Indian tribes in  
2 California and many of those tribes have Indian lands within the  
3 tribe's jurisdiction that are eligible for class III gaming.

4 (j) Subdivision (d) of Section 12012.25 of the Government Code  
5 designates the Governor as the state official with authority to  
6 negotiate and execute tribal gaming compacts on behalf of the  
7 state.

8 (k) Subdivisions (c) and (e) of Section 12012.25 of the  
9 Government Code provide that tribal-state gaming compacts  
10 negotiated by the Governor are subject to ratification by the  
11 Legislature.

12 (l) An increasing number of Indian tribes are seeking to take  
13 new land into trust for purposes of conducting class III gaming  
14 activities pursuant to the provisions of IGRA, often in urban areas.

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

33 (n) It is therefore the intent of the Legislature, with respect to  
34 all Indian gaming proposals on nontribal lands, to encourage the  
35 Governor to negotiate a tribal-state gaming compact only when  
36 land has been taken into trust and when the local jurisdiction and  
37 the local community in which the tribe's proposed gaming project  
38 would be located actually support the project, and, in the absence  
39 of that local support, it is the intent of the Legislature not to ratify  
40 the compact.

1 SEC. 2. Section 12012.87 is added to the Government Code,  
2 to read:

3 12012.87. When engaging in negotiations for a tribal-state  
4 gaming compact to allow class III gaming on Indian lands within  
5 the tribe’s jurisdiction, the Governor ~~may~~ *shall* consider the  
6 presence or absence of local support demonstrated by both of the  
7 following:

8 (a) The results of an advisory vote in the county or counties in  
9 which the tribe’s Indian lands are located, either approving or  
10 disapproving a proposed gaming facility.

11 (b) One or more intergovernmental agreements enforceable in  
12 state court, that include provisions to mitigate the impacts of the  
13 proposed gaming and related activities, executed by the Indian  
14 tribe and each of the following entities:

15 (1) The incorporated city or city and county in which the Indian  
16 lands are located, or, if the land is not located within an  
17 incorporated city or city and county, the county or counties in  
18 which the land is located.

19 (2) Each county that is contiguous to the county in which the  
20 land is located and that is likely to be substantially impacted by  
21 the proposed gaming and related activities, as reasonably  
22 determined by the board of supervisors of the county and set forth  
23 in a measure specifying the nature of anticipated impacts that are  
24 no more than 75 miles from the proposed gaming facility, and the  
25 estimated costs of mitigation.