

# *Stand Up For California!*

## **“Citizens making a difference”**

[www.standupca.org](http://www.standupca.org)

P. O. Box 355  
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March 1, 2017

Honorable Marc Levine  
California State Assembly Member  
State Capitol Room 5135  
Sacramento, CA. 95814  
[Assemblymember.levine@assembly.ca.gov](mailto:Assemblymember.levine@assembly.ca.gov)

### ***RE: Regarding AB 1377 – Off-Reservation Gaming***

Dear Assembly Member Levine,

Stand Up For California<sup>1</sup> writes today with regard to AB 1377.

AB 1377 helps to develop a reasonable process for gubernatorial concurrence when the Secretary of the Interior determines that a gaming establishment on newly acquired lands would be in the best interest of an Indian tribe and its members and would not be detrimental to the surrounding community pursuant to Section 20(b)(1)(A) of the federal Indian Gaming Regulatory Act. However, the language of the bill, while constructed with the best of intentions, allows for manipulation and unintended consequences that must be considered. Additionally, we question if this legislation should instead be presented as a State Constitutional Amendment.

AB 1377 makes clear that the State Legislature must have input into what ultimately determines that allowing off-reservation casinos makes sense. This is an immensely important decision that cannot be made by the Governor alone. Allowing one person to wield so much power is antithetical to the governmental structure Californians established in their Constitution. The California Constitution gives the Governor only limited powers, designed to avoid corruption and improper influence and to advance sound decision-making. Proper decision-making requires input from many sources, not just one. Thus we support the language of the bill this far, but the bill is missing substantive standards for the role of the State Legislature.

If the Legislature should move forward with off-reservation gaming, it must be a considered decision made only after critical information gathering and debate. Assuming that the State wants tribal casino expansion in both the rural and urban areas of the state, there must be a rigorous process that ensures that removal of state lands for casino development is in the best interest of the State and ensures that the rights of affected citizens are protected. At the very least a clear process must involve:

- 1) Approval of the affected community, including a vote of the affected county consistent with our current law regarding gambling expansion;

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<sup>1</sup> is a not for profit organization and serves as an advocate and information resource for community groups, local and state policy makers trying to understand and respond to the complexities surrounding the expansion of tribal gaming in California

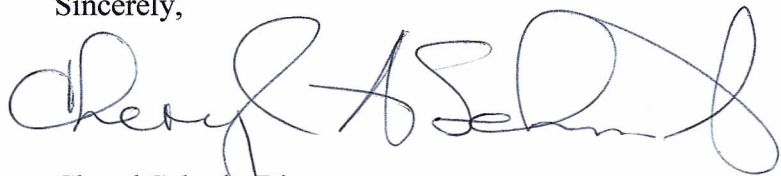
- 2) A rigorous environmental review process in accordance with State laws by the hosting local government;
- 3) A careful analysis of socio-economic impacts and the cumulative impacts of the proposal;
- 4) Comprehensive intergovernmental agreements that mitigate environmental impacts, as well as the costs of county or city services such as law enforcement, fire and emergency services, and
- 5) The right of any or all affected parties to seek judicial relief before final ratification of a Tribal State Compact by the State Legislature

These are not new ideas.<sup>2</sup> Californians have had a long history on voting on gambling issues. The California Gambling Control Act of 1998 recognized that citizens had a right to vote on gambling expansion.<sup>3</sup> This was again validated in the 1998 Pala Compact in Article 16 even for Tribes with established reservations. (See – attached). The Sacramento Bee recognized in its May 9, 2016, editorial entitled: *Californians are not potted plants in Indian casino negotiations*, with a by line of “Indian tribes and their partners should understand that one sure way to run afoul of the voters is to ignore their voice.” Citizens are concerned about the impact the gaming industry has on quality of life, community character and law enforcement.

AB 1377 confronts State Legislators with the question of whether gaming in California should expand beyond that which the Federal government foists upon the State. Permitting off-reservation gaming will require the State to confront challenging questions about which Tribe gets what and why. As well as when should a Tribe be permitted to move its casino from its established rural reservation location to a more lucrative high profile urbanized one?

In closing, Stand Up appreciates your efforts and willingness to take on this controversial issue. We hope that you will give serious consideration to the need of substantive standards for the role of the Legislators to ease our concerns of unintended consequences. Please do not hesitate to call upon us.

Sincerely,



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Attachment

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<sup>2</sup> See Senate Bill 1013, amended version August 25 by Senator Flores.

<sup>3</sup> Article 13 Local Governments 19961.(a)(1), “...shall not be valid unless... submitted for approval to the voters of the city, county or city and county and is approved by a majority of the electors voting thereon.”

ARTICLE 16. ADVISORY VOTE OF THE LOCAL ELECTORATE

- 16.1 Purpose. In order to provide further participation by the local electorate in the compacting process and because neither the voters of San Diego County nor their representatives have authorized gaming in the unincorporated areas of San Diego County, which includes the area of San Diego County in which the Pala Reservation is located, this Compact shall provide for an advisory vote of the local electorate in accordance with the provisions of this Article.
- 16.2 Placement of Advisory Vote on Ballot. The Board of Supervisors of San Diego County is requested to place on the ballot for a vote of the electorate of San Diego County at the first general election following the execution of this Compact the following question: "**Advisory Vote Only:** Do you approve of the Compact entered into by the Pala Band of Mission Indians and the State of California, regulating the operation of certain forms of gaming on the Tribe's Reservation and setting standards for the protection of employees, patrons and the environment? Yes \_\_\_\_\_ No \_\_\_\_\_."
- 16.3 Ballot Statement. The Board of Supervisors of San Diego County is requested to cooperate with the Tribe and the State in drafting a ballot statement concerning the terms of the Compact with respect to the advisory vote identified in Section 16.2, and in making available a copy of the Compact for public viewing at public libraries and the county counsel's office.
- 16.4 Effect of Disapproval. If a majority of electors voting thereon do not approve the measure, the Tribe and the Board of Supervisors, or the Governor at the Governor's election, shall, in negotiating the County Participation Agreement, take into account the concerns of the voters as expressed in the ballot arguments, published polls and published advertising concerning the measure, to the extent the parties can determine

them. In the event that the County Participation Agreement has already been entered into in accordance with Article 15, the Tribe and the Board of Supervisors, or the Governor at the Governor's election, shall renegotiate in good faith the terms of said agreement in order to take into account the above-referenced concerns of the voters to the extent the parties can determine them, and where no agreement can be reached within nine (9) months of the election, any remaining issues shall be arbitrated pursuant to the procedures set forth in subsection 15.6.1, except that the arbitrator shall select that party's proposal that best accommodates the above-referenced concerns of the voters to the extent the arbitrator can determine those concerns. During the pendency of the renegotiation, the existing County Participation Agreement shall continue to be effective and enforceable. To the extent the Governor believes the above-referenced concerns of the voters have not been or cannot be addressed in the County Participation Agreement, at the request of the Governor, the Tribe shall negotiate in good faith with the Governor over amendments to the Compact in an attempt to accommodate those concerns, provided that the parties shall not be obligated to renegotiate any provisions that would impose limitations which are not legally permissible under federal or state law.

- 16.5 Failure to Place Measure on Ballot. If the Board of Supervisors fails or refuses to place the advisory vote on the ballot by reason of any request or other communication by the tribal government or its authorized agents which relate to the vote, the Compact will be deemed to have been breached, and the State shall be entitled to enjoin the operation of all Class III Gaming under this Compact until such time as the advisory vote is placed on the ballot.

16.6 State's Right to Waive Advisory Vote. The Governor in his sole discretion may waive the requirement of holding an advisory vote for any reason, including but not limited to, a determination that a substantial portion of the residents of the County have already authorized gaming.