

AMENDED IN SENATE APRIL 10, 2008

SENATE BILL

No. 1695

Introduced by Senator Florez

February 22, 2008

An act to add Section 12012.92 to the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

SB 1695, as amended, Florez. Tribal gaming: casino location.

Existing federal law, the Indian Gaming Regulatory Act of 1988, 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 *with federally recognized tribes*, subject to ratification by the Legislature.

~~This bill would provide that the location of casinos offering casino-style gaming pursuant to the federal law described above shall be limited to those areas where the tribe has historically maintained its reservation. The bill would provide that, if the tribe is landless and has no reservation as of January 1, 2009, the tribe shall be limited to siting a casino in the area where the tribe has historically carried on its tribal activities. The bill would require that, on or after January 1, 2009, every compact or compact renewal entered into by the state with an Indian tribe prohibit the location of gaming establishments offering casino-style gaming outside the county where the tribe has historically maintained its reservation, or the county where the tribe has historically conducted tribal activities for the majority of the year. It would also require each compact to prohibit that gaming in any urban area. The bill would place other specified requirements on the Governor with respect to the location~~

~~of tribal casinos. prohibit the Governor from negotiating or concluding a gaming compact with a tribe that does not have land held in trust on which the gaming is to occur and that is not federally recognized.~~

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) At the March 7, 2000, statewide primary election, the people
4 of the State of California approved Proposition 1A, which added
5 subdivision (f) to Section 19 of Article IV of the California
6 Constitution. These provisions allow the Governor to negotiate
7 tribal-state gaming compacts to operate slot machines, lottery
8 games, and banking and percentage card games by federally
9 recognized tribes on Indian lands in accordance with federal law.

10 (b) The proponents of Proposition 1A stated in their ballot
11 arguments, contained in the ballot pamphlet, the following:

12 “Proposition 1A and federal law strictly limit Indian gaming to
13 tribal land. The claim that casinos could be built anywhere is totally
14 false.”

15 (c) The longstanding public policy of this state is to regulate all
16 forms of gambling so as to ensure that legalized gambling does
17 not endanger the public health, safety, welfare, and good order of
18 the state.

19 ~~(d) The Legislature finds that it is in the best interest of the~~
20 ~~citizens of California not to have casinos that conduct Class III~~
21 ~~gaming pursuant to the federal Indian Gaming Regulatory Act (18~~
22 ~~U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.), in areas~~
23 ~~where historically there have been no Indian or tribal lands.~~

24 ~~(e) The Legislature recognizes that some tribal governments~~
25 ~~have made very substantial investments in business enterprises on~~
26 ~~tribal lands that have been part of an Indian reservation for many~~
27 ~~decades and declared by the United States government to be Indian~~
28 ~~reservations.~~

29 ~~(f) These very substantial and significant tribal business~~
30 ~~enterprises may be jeopardized if another tribal government seeks~~
31 ~~to have property taken into trust, in close proximity. The creation~~
32 ~~of new Indian reservations and the creation of new tribal casinos~~

1 should be accomplished in a manner that does not jeopardize the
2 financial investments of other tribal governments, and other
3 businesses engaged in gaming and wagering.

4 (g) ~~Currently there are a number of tribes that are seeking to~~
5 ~~have property taken into trust to serve as sites for tribal casinos or~~
6 ~~other tribal business enterprises. The legitimate rights of these~~
7 ~~tribes should be accomplished and honored without jeopardizing~~
8 ~~and harming the businesses of other nearby tribes, that have had~~
9 ~~their tribal lands in trust for many years.~~

10 (h) ~~The state needs to protect the rights and interests of existing~~
11 ~~tribal governments that have taken property into trust. It is,~~
12 ~~therefore, the intent of the Legislature to provide a policy and~~
13 ~~structure to the siting of additional gaming establishments, pursuant~~
14 ~~to the federal Indian Gaming Regulatory Act, and to best serve the~~
15 ~~interest of California citizens.~~

16 SEC. 2. Section 12012.92 is added to the Government Code,
17 to read:

18 12012.92. (a) ~~The location of casinos offering casino-style~~
19 ~~gaming, pursuant to the federal Indian Gaming Regulatory Act~~
20 ~~(18 U.S.C. Sec. 1166 et seq. and 25 U.S.C. Sec. 2701 et seq.), shall~~
21 ~~be limited to those areas where the tribe has historically maintained~~
22 ~~its reservation. If the tribe is landless and has no reservation as of~~
23 ~~January 1, 2009, the tribe shall be limited to siting a casino in the~~
24 ~~area where the tribe has historically carried on its tribal activities.~~
25 ~~If the tribe has conducted tribal activities in more than one county,~~
26 ~~then the tribal casino shall be situated in the county where the tribe~~
27 ~~traditionally spent the greater portion of the year. If a tribe has a~~
28 ~~federally recognized reservation, gaming shall be conducted only~~
29 ~~on the reservation. However, if the reservation is in an~~
30 ~~environmentally sensitive area, then the tribe may petition the~~
31 ~~federal government to have other property taken into trust, if it is~~
32 ~~in the same county. The Governor shall not negotiate a gaming~~
33 ~~compact with a tribe that has had land taken into trust that is outside~~
34 ~~the county where its historic reservation was situated *does not have*~~
35 ~~*land held in trust on which the gaming is to occur and that is not*~~
36 ~~*federally recognized.*~~

37 (b) ~~Every compact, or compact renewal, entered into by the~~
38 ~~state with an Indian tribe under the federal Indian Gaming~~
39 ~~Regulatory Act on or after January 1, 2009, shall prohibit the~~
40 ~~location of gaming establishments offering casino-style gaming~~

1 pursuant to the federal Indian Gaming Regulatory Act, as well as
2 the conduct of that gaming, outside the county where the tribe has
3 historically maintained its reservation, or the county where the
4 tribe has historically conducted tribal activities for the majority of
5 the year. Each compact shall also prohibit that gaming in any urban
6 area.

7 ~~(e) The Governor may not concur in any determination under~~
8 ~~Section 20 of the federal Indian Gaming Regulatory Act to locate~~
9 ~~a casino-style gaming establishment outside the county where the~~
10 ~~tribe has historically maintained its reservation or the county where~~
11 ~~the tribe has historically conducted tribal activities for the majority~~
12 ~~of the year, or in an urban area.~~

13 ~~(d) (1) The Governor shall oppose the acquisition of land by~~
14 ~~the Secretary of the Interior for the benefit of an Indian tribe if~~
15 ~~those lands are located outside the county where the tribe has~~
16 ~~historically maintained its reservation or the county where the tribe~~
17 ~~has historically conducted tribal activities for the majority of the~~
18 ~~year, or in an urban area, if that land could be used for gaming,~~
19 ~~including lands to be taken into trust as part of any of the following:~~

20 ~~(A) The settlement of a land claim.~~

21 ~~(B) The initial reservation of an Indian tribe recognized by the~~
22 ~~Secretary of the Interior under the federal recognition process.~~

23 ~~(C) The restoration of lands for an Indian tribe that is restored~~
24 ~~to federal recognition.~~

25 ~~(2) The Governor shall oppose any Indian land claim settlement~~
26 ~~if that settlement would include lands located outside the county~~
27 ~~where the tribe has historically maintained its reservation or the~~
28 ~~county where the tribe has historically conducted tribal activities~~
29 ~~for the majority of the year, or in urban areas, if the land could be~~
30 ~~used for gaming.~~

31 ~~(e) For purposes of this section, the following definitions apply:~~

32 ~~(1) "Casino-style gaming" means the conduct of gaming that~~
33 ~~was offered in Nevada and New Jersey in 1984, as referred to in~~
34 ~~subdivision (e) of Section 19 of Article IV of the California~~
35 ~~Constitution.~~

36 ~~(2) "Urban areas" means a city having a population of 50,000~~
37 ~~or more, and the area within a radius of 25 miles of the city limits~~
38 ~~of that city.~~

39 ~~(f) (1) "Indian lands" and "tribal lands" referred to in~~
40 ~~subdivision (f) of Section 19 of Article IV of the California~~

1 ~~Constitution shall include only those lands within California that,~~
2 ~~as of January 1, 2009, met the following requirements:~~

3 ~~(A) The lands were within the limits of any Indian reservation.~~

4 ~~(B) The lands were held in trust by the United States for the~~
5 ~~benefit of any Indian tribe or individual, or held by any Indian~~
6 ~~tribe or individual subject to restrictions by the United States~~
7 ~~against alienation and over which an Indian tribe exercised~~
8 ~~governmental power at the time. “Indian lands” and “tribal lands”~~
9 ~~also include property taken into trust or annexed to a reservation~~
10 ~~that is within five miles of property taken into trust prior to the~~
11 ~~enactment of subdivision (f) of Section 19 of Article IV of the~~
12 ~~California Constitution.~~

13 ~~(2) “Indian lands” and “tribal lands,” as set forth in subparagraph~~
14 ~~(A), do not include property situated outside the county where the~~
15 ~~tribe has historically maintained its reservation or the county where~~
16 ~~the tribe has historically conducted tribal activities for the majority~~
17 ~~of the year, or in an urban area, if the lands are taken into trust~~
18 ~~after the effective date of this statute.~~