

New tribal gaming compacts ratified by State Assembly

by Bob Marra

The California Assembly approved new gaming compacts with four California Tribes on June 27 that will allow major expansion of gaming operations projections annually to the state budget.

Without debate, the Assembly voted to ratify comprehensive agreements with the Agua Caliente Band of Cahuilla Indians, the Morongo Band of Mission Indians, the Pechanga Band of Luiseno Indians and the Sycuan Band of Kumeyaay Indians in San Diego County.

The vote to ratify the compacts puts an end to a year-long rift between the tribes and labor unions that still seek to organize tribal casino workers.

The renegotiated compacts generated intense lobbying and negotiating since emerging in August last year. Governor Arnold Schwarzenegger expects to sign bills to officially ratify the compacts within the next few months. The bills would take effect on January 1, 2008, but before that they must be approved by the federal government through the Department of Interior.

The new compacts will allow the tribes collectively to nearly double the number of slot machines in operation, bringing the total to about 30,000. Such an expansion, if acted upon fully by the tribes, could result in casino operations with double the amount of slots at the largest Las Vegas casinos.

The state's share of the slot machine profits as designated in the compacts could be up to \$800 million every year and a grand total of up to \$22 billion through the term of the deal that ends in 2030.

Ratification of the compacts has been a slow process in the Assembly mostly because of pressure from organized labor and questions about the internal control systems for auditing profits from gaming activities.

The vote came two days prior to the beginning of the state's new fiscal year and lawmakers certainly realized that revenue from the compacts would essentially balance the new budget if federal approval is gained.

"I applaud the legislature for working in the best interest of California by approving the compacts. These compacts, which were negotiated in good faith with sovereign nations, enhance collaboration between local governments, offset environmental impacts and generate significant revenue for the state," stated Governor Schwarzenegger.

For the desert region, the new compacts for the Agua Caliente and Morongo tribes mean the potential increase of 8,500 new slot machines during the term of the deal – 3,000 for Agua Caliente and 5,500 for Morongo – plus the right for the Agua Calientes to develop a third casino in the region. Agua Caliente representatives have repeatedly

stated that they have no plans for the third casino; even if they did, it could take seven years or more to plan and develop a new facility.

The Agua Caliente tribe now operates 2,000 slot machines combined in their Spa Resort Casino in Palm Springs and the Agua Caliente Casino in Rancho Mirage. The tribe estimates that if final passage of the bill occurs in January, some of the new slots could be in operation by April 2008, coinciding with the opening of the tribe's new 15 story, 344-room hotel being built on the casino site.

Under the new compact, the Agua Caliente tribe would pay the state \$23.4 million every year for its existing 2,000 slot machines and 15% of the net take on every machine above that up to the total of 5,000 units. The Morongo tribe would pay the state \$36.7 million each year for its existing 2,000 slots and also 15% of its net win on machines 2,001 to 5,000 and 25% of the net on machines 5,001 to 7,500.

If both tribes operate the total amount of allowed machines under the compact, they would pay the state an estimated \$7.03 billion (\$1.83 billion by Agua Caliente and \$5.2 billion by Morongo) by the end of the term in 2030.

In an unprecedented manner, the legislature also approved separate deals – each referred to as a Memorandum of Agreement (MOA) – that provide regulations for labor related activities and more stringent auditing of casino operations. The MOAs are government-to-government agreements with enforcement provisions that are separate and apart from the 2006 compact amendments.

With regard to the MOAs, the Governor said, "These agreements will enhance our already-strong compacts and gave the Legislature the assurances they needed to approve the compacts, which will bring in much-needed revenue for vital services and programs that Californians rely upon. I have said all along that these compacts will benefit California, the local communities and the tribes. Once again, we have proven that by setting partisan differences aside and working together, we can do what is in the best interest for California."

Under the memoranda of agreement, tribes will:

- Require their Gaming Facility employees to comply with state court and agency orders pertaining to child, family, and spousal support.
- Provide to the state documents related to their workers' compensation system if they have not entered into the state's system.
- Establish comprehensive programs to address problem gambling. The programs will include:
 - Training of employees to identify and manage problem gambling.
 - Posting of signage with information for patrons on where to obtain assistance for gambling problems.

- Exclusion programs for problem gamblers.
- Efforts to prevent underage individuals from loitering in areas where gaming occurs.
- Assurances that marketing and advertising contain a responsible gambling message.
- Maintain and implement minimum internal control standards for class III gaming that are no less stringent than those contained in the Minimum Internal Control Standards (MICS) of the National Indian Gaming Commission (NIGC) until such time as the State Gaming Agency has regulations in effect that contain standards as stringent as the MICS and the NIGC regains authority to adopt and enforce MICS
- Agree to submit to enforcement and auditing by the state to ensure the tribes are in compliance with the MICS
- Provide copies of financial audits to the state, including any class III gaming audits submitted to the NIGC.

In addition, the tribes and state agree that any disputes that occur under the MOAs will be resolved first by good-faith negotiations. Disputes that are not resolved by negotiation may be submitted to binding arbitration. The arbitration award may be enforced in federal or state court.