

SA2005RF0056,
AMDT. # 1-S

February 4, 2005

Via Fax
916-324-8835

Ms. Tricia Knight
Initiative Coordinator
Attorney General's Office
1300 I Street, Suite 125
Sacramento, CA 94244-2500

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FEB -7 2005

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Title and Summary – "The No Urban Casino Act"
Versions 1-3

Dear Ms. Knight:

Attached, please find suggested Title and Summaries for each version of the initiative, together with a change to version one (red-lined and clean versions).

Sincerely,

Thomas Davidoff

Norman La Force

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THE NO URBAN CASINO ACT

SECTION 1. Title.

This Act shall be known as and may be cited as "The No Urban Casino Act."

SECTION 2. Findings and Declarations of Purpose.

The people of the State of California find and declare that:

(a) Proposition 1A created a limited exception to California's anti-casino laws to save tribal gaming conducted on existing and largely rural Indian reservations. The proponents said that Proposition 1A was intended to: "keep the gaming we have on our reservations. ... If Proposition 1A fails, tribal gaming would face being shut down. ... Proposition 1A and federal law strictly limit Indian gaming to tribal land. The claim that casinos could be built anywhere is totally false. ... The majority of Indian Tribes are located on remote reservations...."

(b) Since Proposition 1A was adopted, Indian tribes and non-Indian developers have attempted to acquire land in urban areas to be used for tribal casinos. This was not the intent of the voters when they approved Proposition 1A. This Act therefore will clarify that Proposition 1A does not authorize tribal casinos in or near urban areas, and that Indian lands under Proposition 1A do not include land in or near urban areas.

(c) Urban tribal casinos are detrimental to the surrounding communities and state welfare. Urban tribal casinos damage surrounding businesses, cause severe traffic problems, and negatively impact housing, commuting, the environment, public safety and welfare, and the financial integrity of surrounding cities and counties. In addition, "reservation shopping" damages other gaming, including tribal casinos located on existing reservations, charity bingo games and racetracks. The location of any kind of tribal casinos in urban areas pursuant to 25 U.S.C. §2719(b)(1)(a) would be detrimental to the surrounding communities and contrary to state policy.

(d) This Act serves legitimate state interests in the health, safety and welfare of California's citizens. Where and how much casino gaming is appropriate are legislative choices involving important State policy choices and the exercise of the State's police power.

(e) This Act also repeals the State's statutory waiver of its sovereign immunity from suit in cases involving urban tribal casinos. To the fullest extent possible, this repeal and all the other terms of this Act are to apply to any pending suits, disputes or negotiations, including any relief in such cases.

SECTION 3. Section 19 of Article IV of the California Constitution is amended to read:

SEC. 19

(a) The Legislature has no power to authorize lotteries and shall prohibit the sale of lottery tickets in the State.

(b) The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results.

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

(d) Notwithstanding subdivision (a), there is authorized the establishment of a California State Lottery.

(e) The Legislature has no power to authorize, and shall prohibit casinos of the type currently operating in Nevada and New Jersey.

(f) Notwithstanding subdivisions (a) and (e), and any other provision of state law, the Governor is authorized to negotiate and conclude compacts, subject to ratification by the Legislature, for the operation of slot machines and for the conduct of lottery games and banking and percentage card games by federally recognized Indian tribes on Indian lands in California in accordance with federal law. Accordingly, slot machines, lottery games, and banking and percentage card games are hereby permitted to be conducted and operated on tribal lands subject to those compacts. This subdivision does not authorize or permit any compact that would allow a tribal casino located in an urban area.

(g) Notwithstanding subdivision (a), the Legislature may authorize private, nonprofit, eligible organizations, as defined by the Legislature, to conduct raffles as a funding mechanism to provide support for their own or another private, nonprofit, eligible organization's beneficial and charitable works, provided that (1) at least 90 percent of the gross receipts from the raffle go directly to beneficial or charitable purposes in California, and (2) any person who receives compensation in connection with the operation of a raffle is an employee of the private nonprofit organization that is conducting the raffle. The Legislature, two-thirds of the membership of each house concurring, may amend the percentage of gross receipts required by this subdivision to be dedicated to beneficial or charitable purposes by means of a statute that is signed by the Governor.

SECTION 4. Section 12012.6 is added to the Government Code to read as follows:

This section governs tribal-state gaming compacts for any urban area as defined in the No Urban Casino Act. Notwithstanding any other law:

a. Government Code §98005 shall not apply to any compact, compact negotiations or dispute concerning a tribal casino in an urban area.

b. The Governor shall not concur in the location of a tribal casino in an urban area under 25 U.S.C. §2719(b)(1)(A) or any similar laws.

c. Any compact for an urban area that the State must negotiate, notwithstanding the No Urban Casino Act, shall require ratification by a vote of two-thirds of the membership of each house of the Legislature.

d. SECTION 5. ——— As used in this Act, "Urban Area" means all land within 15 miles of any "Urbanized Area" as defined in the 2000 Census, except any land that, before the adoption of this Act, was both eligible for gaming and actually taken into trust for a tribe that was a party to a tribal-state gaming compact ratified by the Legislature on or before January 1, 2005.

SECTION 56. In the event that between January 1, 2005 and the effective date of this measure, legislation is enacted that is inconsistent with this measure, including any legislation ratifying a compact for an urban area, said legislation is void and repealed.

SECTION 76. The provisions of this Act are not in conflict with any initiative measure that appears on the same ballot. In the event that this Act and another measure that amends the Constitution regarding tribal casino gaming are adopted at the same election, the courts are hereby directed to reconcile their respective statutory provisions to the greatest extent possible and to give effect to every provision of both measures.

SECTION 78. The statutory provisions of this Act may be amended only by a vote of two-thirds of the membership of each house of the Legislature. All statutory amendments to this Act shall be to further the Act and must be consistent with its purposes.

SECTION 98. If any provision of this Act or the application thereof to any person or circumstances is held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions or applications of this Act that can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Act are severable.