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Proposed Committee Substitute by the Committee on Regulated
Industries

1 A bill to be entitled
2 An act relating to a gaming compact between the State
3 of Florida and the Seminole Tribe of Florida; defining
4 terms; providing that the a previous compact between
5 the Tribe and the Governor is not approved or ratified
6 by the Legislature; directing the Governor to
7 negotiate a gaming compact with the Tribe; specifying
8 requirements and minimum standards for the compact;
9 specifying the date on which the authority of the
10 Governor to negotiate a compact expires; specifying
11 games that may be authorized for play pursuant to the
12 compact; specifying revenue sharing between the state
13 and the Tribe; requiring the release of certain gaming
14 revenues to the state; providing for the reduction of
15 the Tribe's net win on which revenue sharing is based
16 if additional Class III games are authorized under
17 certain circumstances; providing for completion of the
18 term of the compact in the event that the voters
19 repeal a constitutional provision authorizing slot
20 machines at certain pari-mutuel facilities; providing
21 that the compact becomes void as the result of a
22 judicial decision or decision of the Secretary of the
23 United States Department of the Interior invalidating
24 certain provisions of the compact; specifying limits
25 on the term of a compact; limiting the number of
26 facilities at which gaming may occur; specifying
27 requirements for a central computer system on gaming



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28 facility premises; requiring that the system provide
29 the state with access to certain data; specifying the
30 authority of the state to oversee gaming activities by
31 the Tribe; requiring medical professionals employed at
32 the Tribe's gaming facilities to have certain minimum
33 qualifications; requiring access for municipal or
34 county emergency medical services; specifying minimum
35 construction standards for the Tribe's gaming
36 facilities; specifying minimum environmental
37 standards; requiring the Tribe to establish procedures
38 to dispose of tort claims; requiring the Tribe to
39 maintain a minimum amount of general liability
40 insurance for tort claims; prohibiting the Tribe or
41 its insurer from invoking sovereign immunity under
42 certain circumstances; requiring the Tribe to waive
43 its sovereign immunity for disputes relating to the
44 compact; requiring presuit arbitration of disputes
45 relating to the compact; requiring the Tribe to
46 maintain nondiscriminatory employment practices;
47 requiring the Tribe to use its best efforts to spend
48 its revenue in this state; providing legislative
49 intent to review the compact; directing the Governor
50 to negotiate agreements with Indian tribes in this
51 state, subject to approval by the Legislature,
52 relating to the application state taxes on Indian
53 lands; providing a contingent effective date.

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Be It Enacted by the Legislature of the State of Florida:



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57 Section 1. As used in this act, the term:
58 (1) "Agreement" means the document executed by the Seminole
59 Tribe of Florida and the Governor on November 14, 2007,
60 published in the Federal Register on January 7, 2008,
61 subsequently invalidated by the Florida Supreme Court in the
62 case of Florida House of Representatives, et al., v. Crist, No.
63 SC07-2154.
64 (2) "Class II gaming" means the forms of gaming defined in
65 25 U.S.C. s. 2703(7) and by the regulations of the National
66 Indian Gaming Commission in effect on January 1, 2009.
67 (3) "Class III gaming" means the forms of Class III gaming
68 defined in 25 U.S.C. s. 2703(8) and by the regulations of the
69 National Indian Gaming Commission in effect on January 1, 2009.
70 (4) "Compact" means the compact between the Seminole Tribe
71 of Florida and the State of Florida executed by the Tribe and
72 the state pursuant to the provisions of the Indian Gaming
73 Regulatory Act of 1988 and this act, and approved or deemed
74 approved by the United States Department of the Interior
75 pursuant to 25 U.S.C. s. 2710(d) (8).
76 (5) "Net win" means gross gaming revenue for Class III
77 games, as such games are defined by the federal Indian Gaming
78 Regulatory Act of 1988, which is the difference between gaming
79 wins and losses, before deducting costs and expenses.
80 (6) "Revenue sharing cycle" means a 12-month period, with
81 the first such cycle beginning on the day the compact executed
82 pursuant to this act is approved or deemed approved by the
83 Secretary of the United States Department of the Interior, as
84 evidenced by the date of publication in the Federal Register.
85 (7) "Tribe" means the Seminole Tribe of Florida.



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86 Section 2. The agreement executed by the Governor and the
87 Tribe is not ratified or approved by the Legislature.

88 Section 3. (1) The Governor is hereby authorized and
89 directed to execute a compact on behalf of the State of Florida
90 with the Tribe pursuant to the federal Indian Gaming Regulatory
91 Act of 1988, 18 U.S.C. ss. 1166-1168, and 25 U.S.C. s. 2701 et
92 seq., and this act for the purpose of authorizing class III
93 gaming on Seminole lands within this state.

94 (2) The Legislature recognizes the efforts of the Governor
95 and the Tribe in the negotiation and formulation of the
96 agreement. The Legislature intends that the compact entered into
97 pursuant to this act conform to the terms and standards in the
98 agreement to the extent that such terms and standards do not
99 conflict with the minimum terms and standards provided in this
100 act.

101 (3) A compact that meets all of the minimum terms and
102 standards specified in this act does not require subsequent
103 approval or ratification by the Legislature. The compact shall
104 specify a procedure for amending the compact. Any amendment to
105 the compact which is consistent with the minimum terms and
106 standards provided in this act does not require subsequent
107 approval or ratification by the Legislature.

108 (4) If any provision of the compact relating to covered
109 games, payments, suspension or reduction in payments, or
110 exclusivity is held by a court of competent jurisdiction or by
111 the Secretary of the United States Department of the Interior to
112 be invalid, the compact is void.

113 (5) The Governor shall ensure that all revenue sharing
114 received pursuant to the compact is deposited into the Education



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115 Enhancement Trust Fund.

116 (6) The Governor shall provide a copy of the compact to the
117 President of the Senate and the Speaker of the House of
118 Representatives as soon as it is executed by the state and the
119 Tribe and before or simultaneous with its submission to the
120 Department of the Interior.

121 (7) The Governor shall preserve all documents, if any,
122 which relate to the intent or interpretation of the compact, and
123 maintain such documents for at least the term of the compact.

124 (8) Except for the authority granted to the Governor in
125 section 7 of this act, the authority granted to the Governor by
126 this act expires at 11:59 p.m. on December 31, 2009.

127 Section 4. The Division of Pari-mutuel Wagering of the
128 Department of Business and Professional Regulation is designated
129 as the state agency having the authority to carry out the
130 state's oversight responsibilities under a compact authorized by
131 this act.

132 Section 5. (1) Notwithstanding any other provision of law
133 to the contrary, the Governor is authorized to negotiate a
134 compact with the Tribe to permit the Tribe to offer for play any
135 of the following games that are permitted in this state under
136 limited circumstances at licensed pari-mutuel facilities:

137 (a) Slot machines, as defined in s. 551.102(8), Florida
138 Statutes.

139 (b)1. Charity celebrity poker tournaments, if the compact
140 specifies the minimum percentage of the net proceeds from each
141 poker tournament which must be donated to a charitable
142 organization organized pursuant to s. 501(c)(3) of the Internal
143 Revenue Code, limits the number of tournaments that may be held



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144 each year, limits the maximum number of days that tournaments
145 may be played, and limits the frequency of the tournaments.

146 2. The compact shall permit the Tribe to conduct games of
147 poker without betting limits if such games are authorized in
148 this state to any person for any purpose.

149 (c) Any devices or games that are authorized under state
150 law to the Florida State Lottery, except that the Tribe may not
151 offer such games through the Internet unless others in the state
152 are permitted to do so.

153 (d) Any new Class II game authorized by Florida law for any
154 person for any purpose.

155 (2) Notwithstanding any other provision of law to the
156 contrary, a compact negotiated pursuant to this section shall
157 permit the Tribe to offer for play banked card games, including
158 baccarat, chemin de fer, and blackjack or 21.

159 (3) Notwithstanding any other provision of law to the
160 contrary, a compact negotiated pursuant to this act shall permit
161 the Tribe to offer for play all of the following Class III games
162 if blackjack or 21 is authorized for play at licensed pari-
163 mutuel facilities located in Miami-Dade County or Broward County
164 pursuant to s. 23, Article X of the State Constitution and
165 chapter 551, Florida Statutes:

166 (a) Roulette or roulette style games; and

167 (b) Craps or craps style games.

168 (4) (a) In consideration for authority to play the specified
169 Class III games described in this section, the compact shall
170 provide for revenue sharing through periodic payments to the
171 state during the term of the compact. Revenue sharing shall be
172 \$400 million each cycle, plus 10 percent of net win above \$2



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173 billion up to \$4 billion, plus 25 percent of net win above \$4
174 billion. However, revenue sharing may be:

175 1 Reduced or suspended if the net win in any cycle fails to
176 reach \$1.37 billion and shall resume when the net win for a
177 cycle or any subsequent period when revenue sharing is reduced
178 or suspended reaches \$1.37 billion.

179 2. Reduced pursuant to subsection (8).

180 (b) The compact shall specify a process for determining the
181 timing and amount of any reduction of revenue sharing payments.
182 The process shall provide the state with at least 30 days to
183 review the Tribe's projection or determination that the net win
184 for any cycle will or has failed to reach \$1.37 billion.

185 (5) Revenue sharing required by this section shall be in
186 addition to assessments by the state, consistent with 25 U.S.C.
187 s. 2710(d)(3)(C)(iii), in such amounts as are necessary to
188 defray the costs of regulating activity conducted pursuant to
189 the compact; payments, consistent with 25 U.S.C. s. 2710

190 (b)(2)(B)(v), to help fund operations of local government
191 agencies; any other provision of the compact relating to
192 financial obligations of the Tribe; taxation by the Indian
193 tribe, consistent with 25 U.S.C. 2710(d)(3)(C)(iv), of certain
194 activities in amounts comparable to amounts assessed by the
195 State for comparable activities; and any separate legal document
196 obligating the Tribe to make payments or to share revenues.

197 (6) In recognition of the fact that the Tribe has been
198 conducting gaming consistent with the provisions of the
199 agreement, all revenues shared or anticipated to be shared
200 pursuant to that agreement before the date the compact is
201 approved or deemed approved by the United States Department of



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202 the Interior shall be ratified and released to the State of
203 Florida without further obligation or encumbrance. Acceptance of
204 such funds by the state does not validate the agreement or the
205 operation of the Class III gaming by the Tribe during the period
206 a valid compact was not in effect.

207 (7) In consideration for any additional Class III games
208 authorized for the Tribe under subsection (3), the compact may
209 not provide for the elimination or reduction of revenue sharing
210 in the event that blackjack is authorized for play at licensed
211 pari-mutuel facilities located in Miami-Dade County or Broward
212 County.

213 (8) The compact must provide that if one or more additional
214 Class III games not specifically provided for in this act are
215 authorized in this state, such event shall not result in the
216 elimination of revenue-sharing payments under the compact, but
217 shall provide that the Tribe's net win on which its revenue
218 sharing is based be reduced by an amount reasonably calculated
219 by the parties to equal the net win from any such additional
220 Class III gaming activities that are authorized after the
221 effective date of the compact. However, the compact does not
222 permit a reduction in revenue sharing as the result of an
223 authorization for additional Class III games in Gadsden,
224 Liberty, and Franklin Counties or counties west of those
225 counties.

226 (9) The compact may not provide for the elimination or
227 reduction of revenue sharing based on the authorization of
228 historic racing or additional Class II gaming in this state,
229 including any Class II electronic gaming machines that may be
230 authorized for play at licensed pari-mutuel facilities anywhere



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231 in the state.

232 (10) The provisions of the compact, including the revenue-
233 sharing provisions, may not be reduced or eliminated by the
234 existence of any gaming activities being conducted in Florida at
235 the time this compact is ratified which are illegal or are of
236 unsettled legal status as long as the state and its local
237 governmental entities maintain at least their current reasonable
238 level of enforcement actions against such illegal gaming
239 activities.

240 (11) If the Florida Constitution is amended to repeal the
241 slot machine amendment in s. 23, Article X of the State
242 Constitution, the Legislature authorizes the Seminoles to
243 continue to offer the play of slot machines under the terms of
244 the compact authorized pursuant to this section during the
245 remainder of the term of the compact.

246 (12) The compact shall provide that the compact is void if
247 any provision of the compact relating to covered games,
248 payments, or reduction or suspension of payments, or exclusivity
249 is held by a court of competent jurisdiction or determined by
250 the Secretary of the United States Department of the Interior to
251 be invalid.

252 Section 6. The compact negotiated pursuant to this act must
253 meet the following additional minimum terms and standards:

254 (1) The compact shall provide for a term of at least 10
255 years and no more than 25 years.

256 (2) The compact shall authorize the Tribe to offer the play
257 of specified Class III games at no more than seven existing
258 Seminole Tribe of Florida gaming facilities. The compact shall
259 identify the specific lands, locations, and existing gaming



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260 facilities on which the Tribe is authorized to offer the play of
261 such games under the compact. The compact may permit any
262 identified facility to be expanded or replaced by another
263 facility on the same reservation with advance notice to the
264 State of no less than 60 calendar days, but the number of
265 existing facilities on each reservation shall remain the same.

266 (3) The compact shall provide that all gaming machines on
267 the premises of the authorized facilities will be connected to a
268 central computerized reporting and auditing system on the gaming
269 facility premises. The system shall:

270 (a) Collect on a continual basis the unaltered activity of
271 each gaming machine in use at the gaming facility.

272 (b) Provide access to the state by a dedicated
273 telecommunications connection, on a "read-only" basis, upon
274 entry of appropriate security codes and permit access to and
275 downloads of the wager and payout data of each machine,
276 electronically captured by the central computer. However, the
277 compact may not authorize the state to alter or affect the
278 operation of any gaming machine or other device on the premises
279 of the authorized gaming facility or the data provided to the
280 central computer.

281 (c) Be constructed and installed at the Tribe's expense to
282 provide electronic access to the state for the machine wager and
283 payout data collected by the central computer.

284 (d) Be designed in conjunction with the state and the
285 Tribe's technical staff so as to preserve the integrity of the
286 system and the data contained therein, to minimize any
287 possibility of unauthorized access to the system or tampering
288 with the data, and to minimize any access by the state to



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289 information other than machine wager and payout data residing in
290 the central reporting and auditing system.

291 (4) The compact shall designate the Division of Pari-mutuel
292 Wagering of the Department of Business and Professional
293 Regulation as the state agency authorized to carry out the
294 state's oversight responsibilities under the compact.

295 (5) The compact shall require the state to monitor the
296 Tribe's compliance with the provisions of the compact, and:

297 (a) Permit the state to have access, during regular hours
298 of operation, to any public areas of each gaming facility that
299 is conducting gaming activities under the authority of the
300 compact without prior notice, or with concurrent notice, and to
301 any nonpublic area of the facilities without prior notice, or
302 with concurrent notice;

303 (b) Permit the state to conduct oversight testing,
304 including random inspections, of any games or devices authorized
305 under the compact;

306 (c) Provide for annual audits by the state or an
307 independent third party to review slot machine and other Class
308 III gaming compliance under the terms of the compact;

309 (d) Require an annual independent financial audit to verify
310 compliance with any obligations of the Seminole Tribe of Florida
311 under the compact, including financial and auditing provisions,
312 which audit shall be paid by the Tribe; and

313 (e) Permit the state to inspect, review, and receive
314 requested copies of any records of the Tribe which it deems
315 necessary to verify compliance with any gaming or financial
316 obligations of the Seminole Tribe of Florida under the compact.

317 (6) The compact may not:



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318 (a) Limit the number of times or opportunities that the
319 state may inspect any covered games or gaming devices in
320 operation at facilities on a random basis to confirm that the
321 operation and play of the games or devices conform to
322 manufacturer's technical standards or to the standards specified
323 in the compact; or

324 (b) Limit the number of times the state may review internal
325 controls and violations by authorized facilities.

326 (7) The compact shall require the Tribe to:

327 (a) Employ, permit, or authorize only medical professionals
328 at its gaming facilities who are licensed by this state; and

329 (b) Allow unimpeded access to the gaming facilities by
330 municipal or county emergency medical services.

331 (8) The compact shall require the Tribe to ensure that the
332 construction and maintenance of gaming facilities will comply
333 with standards that are at least as stringent as the Florida
334 Building Code.

335 (9) The compact shall provide that, at a minimum, the
336 environmental requirements of any federal permit must ensure
337 that the standards established for the state's environmental
338 resource permitting program as provided for in s. 373.414,
339 Florida Statutes, are met.

340 (10) The compact shall require the Tribe to establish
341 written, reasonable procedures for the disposition of tort
342 claims arising from personal injury or property damage alleged
343 to have been suffered by patrons and invitees of its authorized
344 gaming facilities and to enact such tribal law as is necessary
345 to implement these procedures. The procedures shall include all
346 such tort claims, including claims that exceed the liability



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347 insurance limits specified in subsection (11). The procedures
348 shall include all time limits that are applicable to the
349 disposition of the tort claim and a provision that, upon
350 request, the patron or invitee, or the patron's or invitee's
351 designated representative, shall be provided with a copy of the
352 procedures as well as the name, address, and telephone number of
353 the operator of the facility and the mailing address and
354 telephone number of the clerk of the Tribe's tribal court. The
355 Tribe shall not be deemed to have waived its sovereign immunity
356 from suit with respect to such claims by establishing such
357 procedures but must agree not to assert its sovereign immunity
358 with respect to such claims as provided in subsection (11).

359 (11) The compact shall provide that, during the term of the
360 compact, the Tribe shall maintain a policy of commercial general
361 liability insurance which has a combined single limit for
362 personal injury and property damage of not less than \$2 million
363 per occurrence and in the aggregate. The compact shall require
364 the amount of the coverage to be adjusted annually based on
365 increases in the Consumer Price Index. The insurance policy
366 shall:

367 (a) Prohibit the insurer or the Tribe from invoking tribal
368 sovereign immunity up to the limits of the policy with respect
369 to any claim covered under the policy and disposed of in
370 accordance with the Tribe's tort claim procedures.

371 (b) Include covered claims made by a patron or invitee for
372 personal injury or property damage.

373 (c) Permit the insurer or the Tribe to assert any statutory
374 or common law defense other than sovereign immunity.

375 (d) Provide that any award or judgment rendered in favor of



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376 a patron or invitee shall be satisfied solely from insurance
377 proceeds.

378 (12) The compact shall provide a reasonable process for the
379 expedited resolution of disputes between the state and the Tribe
380 which arise under the compact. The compact shall:

381 (a) Provide that the Tribe waives its sovereign immunity as
382 to any disputes between the state and the Tribe arising out of
383 the compact.

384 (b) Require presuit nonbinding arbitration before a lawsuit
385 can be filed concerning the dispute.

386 (c) Provide that either party may demand presuit nonbinding
387 arbitration to resolve any dispute between the parties arising
388 under the compact.

389 1. The party demanding the presuit nonbinding arbitration
390 shall immediately ask the American Arbitration Association to
391 furnish a list of 11 arbitrators, each of whom shall have at
392 least 5 years of commercial arbitration experience and no
393 financial interest in or prior relationship with any of the
394 parties or their affiliated or related entities or principals.

395 2. The state and the Tribe shall each select a single
396 arbitrator from the list provided by the American Arbitration
397 Association within 10 days after receipt, and the individuals so
398 selected shall choose one additional arbitrator from the list
399 within the next 10 days. The three arbitrators selected shall
400 constitute the panel that shall arbitrate the dispute between
401 the parties pursuant to the American Arbitration Association
402 Commercial Arbitration Rules and chapter 682, Florida Statutes.

403 3. At the conclusion of the proceedings, which shall be no
404 later than 90 days after the demand for arbitration, the



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405 arbitration panel shall present to the parties a proposed
406 agreement that the majority of the panel believes equitably
407 balances the rights, interests, obligations, and reasonable
408 expectations of the parties.

409 4. The parties shall, within 10 days after the arbitration
410 panel's issuance of the proposed agreement, enter into such
411 agreement or notify the opposing party of its intent to reject
412 the agreement and proceed with a lawsuit to resolve the dispute.

413 5. Each party shall pay its respective costs of arbitration
414 and shall pay one-half of the costs of the arbitration panel.

415 (13) The compact shall provide for the exercise of fair
416 employment practices by the Tribe. The compact shall require the
417 Tribe to maintain employment standards that are comparable to
418 the standards provided in federal laws and state laws which
419 forbid employers from discriminating in connection with
420 employment of persons working at the gaming facilities
421 identified under the compact on the basis of race, color,
422 religion, natural origin, gender, age, disability or handicap,
423 or marital status. The Tribe may give preference in employment,
424 promotion, seniority, layoffs, or retention to members of the
425 Tribe and other federally recognized Tribes. The Tribe shall
426 provide a process for employee disputes which permits the
427 employee to be represented by an attorney or other legally
428 authorized representative. The process shall permit the employee
429 to use language interpreters, including interpreters for the
430 deaf or hard of hearing.

431 (14) The compact shall provide that the Tribe will use its
432 best efforts to spend its revenue in this state to acquire goods
433 and services from Florida-based vendors, professionals, and



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434 material and service providers.

435 (15) It is the intent of the Legislature to review a
436 compact entered into under the provisions of this section every
437 5 years. It is the intent of the Legislature to consider the
438 authorization of additional Class III games for operation by the
439 Tribe based upon successful implementation of the compact and
440 the history of compliance with the compact.

441 Section 7. The Governor of this state is hereby authorized
442 and directed to execute an agreement on behalf of the State of
443 Florida with the Indian tribes in this state, acting on a
444 government-to-government basis, to develop and implement a fair
445 and workable arrangement to apply state taxes on persons and
446 transactions on Indian lands. Such agreements shall address the
447 imposition of specific taxes and exemptions from those taxes. An
448 agreement executed by the Governor pursuant to the authority
449 granted in this section shall not take effect unless approved or
450 ratified by the Legislature.

451 Section 8. This act shall take effect on the same date that
452 section 1 of SB 836, or similar legislation, takes effect if
453 such legislation is adopted during the 2009 legislative session,
454 or an extension thereof, and becomes law.