

By the Committee on Regulated Industries; and Senators Jones and King

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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 previous compact between the
5 Tribe and the Governor is not approved or ratified by
6 the Legislature; directing the Governor to negotiate a
7 gaming compact with the Tribe; specifying requirements
8 and minimum standards for the compact; specifying the
9 date on which the authority of the Governor to
10 negotiate a compact expires; specifying games that may
11 be authorized for play pursuant to the compact;
12 specifying revenue sharing between the state and the
13 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
28 facility premises; requiring that the system provide
29 the state with access to certain data; specifying the

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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.

54
55 Be It Enacted by the Legislature of the State of Florida:

56
57 Section 1. As used in this act, the term:

58 (1) "Agreement" means the document executed by the Seminole

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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.

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

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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
115 Enhancement Trust Fund.

116 (6) The Governor shall provide a copy of the compact to the

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

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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 contrary,
156 a compact negotiated pursuant to this section shall permit the
157 Tribe to offer for play banked card games, including baccarat,
158 chemin de fer, and blackjack or 21, if blackjack or 21 is
159 authorized for play at licensed pari-mutuel facilities located
160 in Miami-Dade County or Broward County and chapter 551, Florida
161 Statutes.

162 (3) Notwithstanding any other provision of law to the
163 contrary, a compact negotiated pursuant to this act shall permit
164 the tribe to offer for play all of the following Class III
165 games:

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. If net win in any cycle is
172 less than or equal to \$2 billion, revenue sharing for that cycle
173 shall be \$400 million. If net win in any cycle is more than \$2
174 billion and less than or equal to \$4 billion, revenue sharing

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175 for that cycle shall be \$400 million plus 10 percent of net win
176 that is more than \$2 billion and less than or equal to \$4
177 billion. If net win in any cycle is more than \$4 billion,
178 revenue sharing for that cycle shall be \$600 million plus 25
179 percent of net win that is over \$4 billion. However, revenue
180 sharing may be:

181 1 Reduced or suspended if the net win in any cycle fails to
182 reach \$1.37 billion and shall resume when the net win for a
183 cycle or any subsequent period when revenue sharing is reduced
184 or suspended reaches \$1.37 billion.

185 2. Reduced pursuant to subsection (8).

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

191 (5) Revenue sharing required by this section shall be in
192 addition to assessments by the state, consistent with 25 U.S.C.
193 s. 2710(d) (3) (C) (iii), in such amounts as are necessary to
194 defray the costs of regulating activity conducted pursuant to
195 the compact; payments, consistent with 25 U.S.C. s. 2710
196 (b) (2) (B) (v), to help fund operations of local government
197 agencies; any other provision of the compact relating to
198 financial obligations of the Tribe; taxation by the Indian
199 tribe, consistent with 25 U.S.C. 2710(d) (3) (C) (iv), of certain
200 activities in amounts comparable to amounts assessed by the
201 State for comparable activities; and any separate legal document
202 obligating the Tribe to make payments or to share revenues.

203 (6) In recognition of the fact that the Tribe has been

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204 conducting gaming consistent with the provisions of the
205 agreement, all revenues shared or anticipated to be shared
206 pursuant to that agreement before the date the compact is
207 approved or deemed approved by the United States Department of
208 the Interior shall be ratified and released to the State of
209 Florida without further obligation or encumbrance. Acceptance of
210 such funds by the state does not validate the agreement or the
211 operation of the Class III gaming by the Tribe during the period
212 a valid compact was not in effect.

213 (7) In consideration for any additional Class III games
214 authorized for the Tribe under subsection (3), the compact may
215 not provide for the elimination or reduction of revenue sharing
216 in the event that blackjack is authorized for play at licensed
217 pari-mutuel facilities located in Miami-Dade County or Broward
218 County.

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

232 (9) The compact may not provide for the elimination or

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233 reduction of revenue sharing based on the authorization of
234 historic racing or additional Class II gaming in this state,
235 including any Class II electronic gaming machines that may be
236 authorized for play at licensed pari-mutuel facilities anywhere
237 in the state.

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

246 (11) If the Florida Constitution is amended to repeal the
247 slot machine amendment in s. 23, Article X of the State
248 Constitution, the Legislature authorizes the Seminoles to
249 continue to offer the play of slot machines under the terms of
250 the compact authorized pursuant to this section during the
251 remainder of the term of the compact.

252 (12) The compact shall provide that the compact is void if
253 any provision of the compact relating to covered games,
254 payments, or reduction or suspension of payments, or exclusivity
255 is held by a court of competent jurisdiction or determined by
256 the Secretary of the United States Department of the Interior to
257 be invalid.

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

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

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262 (2) The compact shall authorize the Tribe to offer the play
263 of specified Class III games at no more than seven existing
264 Seminole Tribe of Florida gaming facilities. The compact shall
265 identify the specific lands, locations, and existing gaming
266 facilities on which the Tribe is authorized to offer the play of
267 such games under the compact. The compact may permit any
268 identified facility to be expanded or replaced by another
269 facility on the same reservation with advance notice to the
270 State of no less than 60 calendar days, but the number of
271 existing facilities on each reservation shall remain the same.

272 (3) The compact shall provide that all gaming machines on
273 the premises of the authorized facilities will be connected to a
274 central computerized reporting and auditing system on the gaming
275 facility premises. The system shall:

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

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

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

290 (d) Be designed in conjunction with the state and the

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291 Tribe's technical staff so as to preserve the integrity of the
292 system and the data contained therein, to minimize any
293 possibility of unauthorized access to the system or tampering
294 with the data, and to minimize any access by the state to
295 information other than machine wager and payout data residing in
296 the central reporting and auditing system.

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

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

303 (a) Permit the state to have access, during regular hours
304 of operation, to any public areas of each gaming facility that
305 is conducting gaming activities under the authority of the
306 compact without prior notice, or with concurrent notice, and to
307 any nonpublic area of the facilities without prior notice, or
308 with concurrent notice;

309 (b) Permit the state to conduct oversight testing,
310 including random inspections, of any games or devices authorized
311 under the compact;

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

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

319 (e) Permit the state to inspect, review, and receive

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320 requested copies of any records of the Tribe which it deems
321 necessary to verify compliance with any gaming or financial
322 obligations of the Seminole Tribe of Florida under the compact.

323 (6) The compact may not:

324 (a) Limit the number of times or opportunities that the
325 state may inspect any covered games or gaming devices in
326 operation at facilities on a random basis to confirm that the
327 operation and play of the games or devices conform to
328 manufacturer's technical standards or to the standards specified
329 in the compact; or

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

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

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

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

337 (8) The compact shall require the Tribe to ensure that the
338 construction and maintenance of gaming facilities will comply
339 with standards that are at least as stringent as the Florida
340 Building Code.

341 (9) The compact shall provide that, at a minimum, the
342 environmental requirements of any federal permit must ensure
343 that the standards established for the state's environmental
344 resource permitting program as provided for in s. 373.414,
345 Florida Statutes, are met.

346 (10) The compact shall require the Tribe to establish
347 written, reasonable procedures for the disposition of tort
348 claims arising from personal injury or property damage alleged

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349 to have been suffered by patrons and invitees of its authorized
350 gaming facilities and to enact such tribal law as is necessary
351 to implement these procedures. The procedures shall include all
352 such tort claims, including claims that exceed the liability
353 insurance limits specified in subsection (11). The procedures
354 shall include all time limits that are applicable to the
355 disposition of the tort claim and a provision that, upon
356 request, the patron or invitee, or the patron's or invitee's
357 designated representative, shall be provided with a copy of the
358 procedures as well as the name, address, and telephone number of
359 the operator of the facility and the mailing address and
360 telephone number of the clerk of the Tribe's tribal court. The
361 Tribe shall not be deemed to have waived its sovereign immunity
362 from suit with respect to such claims by establishing such
363 procedures but must agree not to assert its sovereign immunity
364 with respect to such claims as provided in subsection (11).

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

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

377 (b) Include covered claims made by a patron or invitee for

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378 personal injury or property damage.

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

381 (d) Provide that any award or judgment rendered in favor of
382 a patron or invitee shall be satisfied solely from insurance
383 proceeds.

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

387 (a) Provide that the Tribe waives its sovereign immunity as
388 to any disputes between the state and the Tribe arising out of
389 the compact.

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

392 (c) Provide that either party may demand presuit nonbinding
393 arbitration to resolve any dispute between the parties arising
394 under the compact.

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

401 2. The state and the Tribe shall each select a single
402 arbitrator from the list provided by the American Arbitration
403 Association within 10 days after receipt, and the individuals so
404 selected shall choose one additional arbitrator from the list
405 within the next 10 days. The three arbitrators selected shall
406 constitute the panel that shall arbitrate the dispute between

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407 the parties pursuant to the American Arbitration Association
408 Commercial Arbitration Rules and chapter 682, Florida Statutes.

409 3. At the conclusion of the proceedings, which shall be no
410 later than 90 days after the demand for arbitration, the
411 arbitration panel shall present to the parties a proposed
412 agreement that the majority of the panel believes equitably
413 balances the rights, interests, obligations, and reasonable
414 expectations of the parties.

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

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

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

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436 deaf or hard of hearing.

437 (14) The compact shall provide that the Tribe will use its
438 best efforts to spend its revenue in this state to acquire goods
439 and services from Florida-based vendors, professionals, and
440 material and service providers.

441 (15) It is the intent of the Legislature to review a
442 compact entered into under the provisions of this section every
443 5 years. It is the intent of the Legislature to consider the
444 authorization of additional Class III games for operation by the
445 Tribe based upon successful implementation of the compact and
446 the history of compliance with the compact.

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

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