

CS/SB 622 — Gaming

by Regulated Industries Committee and Senator Jones

The bill (Chapter 2010-29, L.O.F.) provides definitions for terms to be used in the compact authorization section. It provides that the prior tribal-state compacts executed by the Governor and the Seminole Tribe of Florida are not ratified or approved by the Legislature and are void and not in effect. It ratifies the gaming compact between the Seminole Tribe of Florida (Tribe) and the State of Florida that was executed by the Tribe and the Governor on April 7, 2010. The ratified compact:

- Has a 20 year term;
- Permits the Tribe to offer, at all seven of its tribal casinos, slot machines, raffles and drawings, and any other new game authorized for any person for any purpose;
- Permits the Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, only at the tribal casinos in Broward County, Collier County, and Hillsborough County (until such new games are authorized for any other person for any other purpose);
- However, if banked card games authorized by a compact with the Miccosukee Indians, the Tribe is authorized to offer banked cards at all 7 Tribal facilities; and
- Provides that the authority for banked card games terminates at the end of 5 years unless affirmatively extended by the Legislature or the Legislature authorizes any other person to offer banked card games.

This compact provides for revenue sharing payments by the Tribe to the state as follows:

- During the initial period (first 24 months), the Tribe is required to pay \$12.5 million per month (\$150 million per year);
- After the initial period, the Tribe's guaranteed minimum revenue sharing payment is \$233 million for year 3, \$233 million for year 4, and \$234 million for year 5;
- After the initial period, the Tribe pays the greater of the guaranteed minimum or payments based on a variable percentage of annual net win that range from 12 percent of net win up to \$2 billion to 25 percent of the amount of any net win greater than \$4.5 billion;
- After the first five years, the Tribe continues to make payments to the state based on the percentage revenue share above without a guaranteed minimum payment; and
- If the Legislature does not extend the authorization for banked card games after the first five years, the net win calculations would exclude the net win from the Tribe's facilities in Broward County.

The compact provides substantial exclusivity to the Tribe. The exclusivity provision provides that, if the state authorizes new forms of Class III gaming or other casino-style gaming after February 1, 2010, or authorizes Class III gaming or other casino-style gaming at any location that was not authorized for such games before February 1, 2010, the Tribe would stop all payments to the state. The Tribe's payments stop when the new gaming begins to be offered for private or public use; however, if the expansion of gaming occurs by the result of a court decision or agency decision, the Tribe's payments would be placed in an escrow account and the Legislature would have until the end of the next session or 12 months (whichever is shorter) to

reverse such a decision. If the Legislature fails to act, the money is released back to the Tribe and the Tribe's payments would stop.

The exclusivity provision of the compact sets forth multiple exceptions, including:

- Compacts with other Tribes;
- Slot machine gaming at the 8 existing pari-mutuel facilities in Broward and Dade Counties;
- Games authorized under ch. 849, F.S., as of February 1, 2010;
- Specified games of historic racing or electronic bingo at pari-mutuels facilities licensed as of February 1, 2010, and located outside of Broward and Dade Counties;
- Pari-mutuel wagering activities at facilities licensed by the State;
- The operation of poker and no-limit poker at card rooms licensed by the State;
- The compact provides a limited exception for the Lottery. The exception includes the types of lottery games authorized under ch. 24, F.S., on February 1, 2010. The state may also authorize specified types of Lottery Vending Machines (LVM) that dispense lottery tickets but that do not reveal the winner or use slot machine-type spinning reels. The lottery may dispense electronic instant lottery tickets by an LVM that displays an image of the ticket on a video screen that the player must touch to reveal outcome of the ticket. The bill limits the number of LVM's that may be installed at any location to 10 machines and provides that no LVM that dispense electronic instant tickets may be installed at any licensed pari-mutuel facility;
- If new forms of Class III gaming and casino-style gaming are authorized for the 8 licensed pari-mutuels located in Dade and Broward Counties and if the net win from those facilities drops after the new gaming begins, then the Tribe may reduce the payments from its Broward Tribal facilities by 50 percent;
- If new forms of Class III gaming and other casino-style gaming are authorized for other locations in Dade and Broward Counties, then the Tribe may exclude the net win from their Broward Facilities from their net win calculations when the new games begin to be played;
- If new games are given to any location in Dade and Broward Counties within the first five years of the Compact, the guaranteed minimum payment would no longer apply to the Tribe's revenue sharing payments and the one billion dollar guarantee would not be in effect. The Tribes payments would be based on the applicable percentage of net win as described above; and
- If the state authorizes Internet gaming and the Tribe's net win falls 5 percent, the Tribe is entitled to operate solely off of the revenue sharing percentages above and is no longer required to make the guaranteed payments to the state. This provision is not applicable if the reduction is due to an act of God or if the Tribe offers Internet gaming.

The compact also:

- Requires the Tribe to waive sovereign immunity for tort claims by patrons up to the same limits provided under law which is currently \$100,000 per person and \$200,000 per incident;
- Permits the state to inspect public and non-public areas of the Tribe's gaming facilities with at least concurrent notice and with a maximum of one inspection per month, which may last no longer than 10 consecutive hours over 2 days, unless noncompliance justifies a longer inspection;
- Requires annual slot machine compliance audits;

- Prohibits persons under 21 years of age to play the covered games;
- Requires a \$250,000 per facility annual donation to the Florida Council on Compulsive Gambling; and
- Provides a process for resolving compact disputes between the state and the Tribe through specified presuit nonbinding arbitration.

The bill also provides that the Governor is authorized to enter into agreement to apply state sales taxes on Indian lands. The money received by the state from the compact is to be deposited into the General Revenue Fund. It also provides for the distribution of 3 percent local government share. Any money remitted by the Tribe before the effective date of the compact is required to be deposited into the General Revenue Fund. The bill provides that the games authorized by the tribal-state compact may be conducted by the Tribe and are not illegal under Florida law. It provides procedures for the negotiation, execution, and Legislative ratification of tribal-state compacts.

It also provides that ss. 4 through 25 of ch. 2009-170, L.O.F., (CS/CS/SB 788) are effective on July 1, 2010. These pari-mutuel provisions:

- Provide a gradual increase in the number of performances that comprise a full schedule of live racing for quarter horses;
- Streamline regulatory procedures for the pari-mutuel industry;
- Provide for greater flexibility of breeders' and stallion awards;
- Allow quarter horse permitholders to run thoroughbred races up to 50% of the time;
- Authorize a quarter horse permit to convert to a limited thoroughbred permit;
- Restrict quarter horse permit holders to a 35-mile lease restriction;
- Authorize a jai alai permit to convert to a greyhound permit if certain requirements are satisfied;
- Provide for a reduction of the tax rate on slot machine revenue from 50% to 35% with a guarantee of tax revenue to be that which was collected in 2008-2009;
- Provide for a gradual reduction of the slot machine annual license fee from \$3 million to \$2 million;
- Allow for slot machines to be linked using a progressive system;
- Provide that the payout percentage of a slot machine facility shall be no less than 85%;
- Authorize Class III slot machines in a charter county or in a county that has a referendum approving slots that was authorized by law or the Florida Constitution, provided that such facility has conducted 2 years of racing and complies with other requirements for slot licensure;
- Provide that an initial cardroom license shall not be issued unless the permitholder has a facility and has begun racing;
- Allow for the conduct of no limit poker in cardrooms; and
- Extend the hours of cardroom operation from 12 hours per day to 18 hours per day Monday through Friday and 24 hours per day Saturday and Sunday

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 29-9; House 74-39