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LEGISLATIVE ACTION

Senate

House

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Floor: 1/AD/2R

04/08/2010 11:30 AM

Senator Jones moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 285.710, Florida Statutes, is amended to
read:

285.710 Compact authorization.—

(1) As Terms used in this section, the term:

(a) "Compact" means the Gaming Compact between the Seminole
Tribe of Florida and the State of Florida, executed on April 7,
2010.

(b) "Covered games" means the games authorized for the
Seminole Tribe of Florida under the compact.



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14 (c) "Documents" means books, records, electronic, magnetic
15 and computer media documents, and other writings and materials,
16 copies thereof, and information contained therein.

17 (d) "Indian Gaming Regulatory Act" or "IGRA" means the
18 Indian Gaming Regulatory Act, Pub. L. No. 100-497, Oct. 17,
19 1988, 102 Stat. 2467, codified at 25 U.S.C. ss. 2701 et seq.,
20 and 18 U.S.C. ss. 1166-1168.

21 (e) "State" means the State of Florida.

22 (f) "State compliance agency" means the Division of Pari-
23 mutuel Wagering of the Department of Business and Professional
24 Regulation which is designated as the state agency having the
25 authority to carry out the state's oversight responsibilities
26 under the compact.

27 (g) "Tribe" means the Seminole Tribe of Florida or any
28 affiliate thereof conducting activities pursuant to the compact
29 under the authority of the Seminole Tribe of Florida have the
30 same meaning as provided in s. 285.711.

31 (2) (a) The agreement executed by the Governor and the Tribe
32 on November 14, 2007, published in the Federal Register on
33 January 7, 2008, and subsequently invalidated by the Florida
34 Supreme Court in the case of Florida House of Representatives,
35 et al. v. *The Honorable Charles J. Crist*, No. SC07-2154, (2008),
36 is not ratified or approved by the Legislature, ~~and~~ is void, and
37 is not in effect.

38 (b) The agreement executed by the Governor and the Tribe on
39 August 28, 2009, and August 31, 2009, respectively, and
40 transmitted to the President of the Senate and the Speaker of
41 the House of Representatives, is not ratified or approved by the
42 Legislature, is void, and is not in effect.



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43 (3) The Gaming Compact between the Seminole Tribe of
44 Florida and the State of Florida, executed by the Governor and
45 the Tribe on April 7,2010, is ratified and approved. The
46 Governor shall cooperate with the Tribe in seeking approval of
47 the compact from the United States Secretary of the Interior.

48 ~~(3) Subject to the limitations in s. 285.711, the Governor~~
49 ~~is hereby authorized and directed to negotiate and execute a~~
50 ~~compact on behalf of the state with the Tribe pursuant to the~~
51 ~~federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss.~~
52 ~~1166-1168, and 25 U.S.C. ss. 2701 et seq., and this act for the~~
53 ~~purpose of authorizing Class III gaming on Seminole lands within~~
54 ~~this state. Any such compact shall not be deemed entered into by~~
55 ~~the state unless and until it is ratified by the Legislature.~~

56 ~~(4) The Governor is authorized to bind the state to any~~
57 ~~amendment to the compact that is consistent with the terms and~~
58 ~~standards in this section and s. 285.711, provided that any~~
59 ~~amendment to provisions relating to covered games, the amount of~~
60 ~~revenue sharing payments, suspension or reduction of payments,~~
61 ~~or exclusivity shall require ratification by the Legislature.~~

62 ~~(5) (a) The Governor shall provide a copy of the compact to~~
63 ~~the President of the Senate and the Speaker of the House of~~
64 ~~Representatives as soon as it is executed. The compact shall not~~
65 ~~be submitted to the Department of the Interior by or on behalf~~
66 ~~of the state or the Tribe until it has been ratified by the~~
67 ~~Legislature.~~

68 ~~(b) The Governor shall provide a copy of any amendment to~~
69 ~~the compact to the President of the Senate and the Speaker of~~
70 ~~the House of Representatives as soon as it is executed and~~
71 ~~before or simultaneous with its submission to the Department of~~



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72 ~~the Interior, provided that any amendment requiring ratification~~
73 ~~by the Legislature shall not be submitted to the Department of~~
74 ~~the Interior for approval until such ratification has occurred.~~

75 ~~(4)(6)~~The Governor shall preserve all documents, if any,
76 which relate to the intent or interpretation of the compact, and
77 maintain such documents for at least the term of the compact.

78 ~~(5)(7)~~If any provision of the compact relating to covered
79 games, revenue-sharing payments, suspension or reduction in
80 payments, or exclusivity is held by a court of competent
81 jurisdiction or by the Department of the Interior to be invalid,
82 the compact is void.

83 ~~(6)(8)~~~~If In the event that~~ a subsequent change to the
84 Indian Gaming Regulatory Act, or to an implementing regulation
85 thereof, mandates the retroactive application of such change
86 without the respective consent of the state or Tribe, the
87 compact is void if the change ~~it~~ materially alters any provision
88 ~~the terms and standards~~ in the compact relating to ~~the~~ covered
89 games, revenue-sharing payments, suspension or reduction of
90 payments, or exclusivity.

91 ~~(9) The Governor shall ensure that all revenue sharing~~
92 ~~received pursuant to the compact and agreement executed by the~~
93 ~~Governor and the Tribe on November 14, 2007, is deposited into~~
94 ~~the Education Enhancement Trust Fund provided that, if necessary~~
95 ~~to comply with any covenant established pursuant to s.~~
96 ~~1013.68(4), s. 1013.70(1), or s. 1013.737(3), funds transferred~~
97 ~~to the Educational Enhancement Trust Fund shall be first~~
98 ~~available to pay debt service on lottery bonds issued to fund~~
99 ~~school construction in the event lottery revenues are~~
100 ~~insufficient for such purpose or to satisfy debt service reserve~~



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101 ~~requirements established in connection with lottery bonds.~~

102 ~~(10) Except for the authority granted to the Governor in~~
103 ~~subsections (4) and (13), the authority granted to the Governor~~
104 ~~by this section and s. 285.711 expires at 11:59 p.m. on August~~
105 ~~31, 2009.~~

106 ~~(11) It is the intent of the Legislature to review a~~
107 ~~compact entered into under the provisions of this section within~~
108 ~~5 years after the compact is approved. It is the intent of the~~
109 ~~Legislature to consider the authorization of additional Class~~
110 ~~III games for operation by the Tribe based upon successful~~
111 ~~implementation of the compact and the history of compliance with~~
112 ~~the compact.~~

113 ~~(7) (12)~~ The Division of Pari-mutuel Wagering of the
114 Department of Business and Professional Regulation is designated
115 as the state compliance agency having the authority to carry out
116 the state's oversight responsibilities under the a compact
117 authorized by this section ~~act~~.

118 ~~(8) (13)~~ (a) The Governor is authorized ~~and directed~~ to
119 execute an agreement on behalf of the state ~~of Florida~~ with the
120 Indian tribes in this state, acting on a government-to-
121 government basis, to develop and implement a fair and workable
122 arrangement to apply state taxes on persons and transactions on
123 Indian lands. Such agreements shall address the imposition of
124 specific taxes, including sales taxes and exemptions from those
125 taxes.

126 (b) The agreement shall address the Tribe's collection and
127 remittance of sales taxes imposed by chapter 212 to the
128 Department of Revenue. The sales taxes collected and remitted by
129 the Tribe shall be based on all sales to non-tribal members,



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130 except those non-tribal members who hold valid exemption
131 certificates issued by the Department of Revenue, exempting the
132 sales from taxes imposed by chapter 212.

133 (c) The agreement shall require the Tribe to register with
134 the Department of Revenue and remit to the Department of Revenue
135 the taxes collected.

136 (d) The agreement shall require the Tribe to retain for at
137 least a period of 5 years records of all sales to non-tribal
138 members which are subject to taxation under chapter 212. The
139 agreement shall permit the Department of Revenue to conduct an
140 audit not more often than annually in order to verify such
141 collections. The agreement shall require the Tribe to provide
142 reasonable access during normal operating hours to records of
143 transactions subject to the taxes collected.

144 (e) The agreement shall provide a procedure for the
145 resolution of any disputes about the amounts collected pursuant
146 to the agreement. For purposes of the agreement for the
147 collection and remittance of sales taxes, the agreement must
148 provide that the Tribe agrees to waive its immunity, except that
149 the state may seek monetary damages limited to the amount of
150 taxes owed.

151 (f) An agreement executed by the Governor pursuant to the
152 authority granted in this section shall not take effect unless
153 ratified by the Legislature.

154 (9) The moneys paid by the Tribe to the state for the
155 benefit of exclusivity under the compact ratified by this
156 section shall be deposited into the General Revenue Fund, except
157 that 3 percent of the amount paid by the Tribe to the state
158 shall be designated as the local government share and shall be



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159 distributed as provided in subsection (10).

160 (10) The calculations necessary to determine the local
161 government share distributions shall be made by the state
162 compliance agency. The local government share shall be
163 distributed as follows:

164 (a) Glades County shall receive 100 percent of the local
165 government share derived from the Seminole Indian Casino-
166 Brighton.

167 (b) Broward County shall receive 7.5 percent, the City of
168 Coconut Creek shall receive 65 percent, the City of Coral
169 Springs shall receive 15 percent, the City of Margate shall
170 receive 10 percent, and the City of Parkland shall receive 2.5
171 percent of the local government share derived from the Seminole
172 Indian Casino-Coconut Creek.

173 (c) Broward County shall receive 15 percent, the City of
174 Hollywood shall receive 65 percent, the Town of Davie shall
175 receive 10 percent, and the City of Dania Beach shall receive 10
176 percent of the local government share derived from the Seminole
177 Indian Casino-Hollywood.

178 (d) Collier County shall receive 100 percent of the local
179 government share derived from the Seminole Indian Casino-
180 Immokalee.

181 (e) Hendry County shall receive 100 percent of the local
182 government share derived from the Seminole Indian Casino-Big
183 Cypress.

184 (f) Broward County shall receive 15 percent, the City of
185 Hollywood shall receive 65 percent, the Town of Davie shall
186 receive 10 percent, and the City of Dania Beach shall receive 10
187 percent of the local government share derived from the Seminole



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188 Hard Rock Hotel & Casino-Hollywood.

189 (g) Hillsborough County shall receive 100 percent of the
190 local government share derived from the Seminole Hard Rock Hotel
191 & Casino-Tampa.

192 ~~(11)-(14)~~ Any moneys remitted by the Tribe before the
193 effective date of the a compact shall be deposited into the
194 General Revenue Fund and are entered into by the state and the
195 ~~Tribe pursuant to this act shall be deemed forfeited by the~~
196 ~~Tribe and~~ released to the state without further obligation or
197 encumbrance. The Legislature further finds that acceptance and
198 appropriation of such funds does not legitimize, validate, or
199 otherwise ratify any previously proposed compact or the
200 operation of class III games by the Tribe for any period prior
201 to the effective date of the a valid compact pursuant to this
202 act.

203 ~~(12)-(15)~~ For the purpose of satisfying the requirement in
204 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized
205 under an Indian gaming compact must be permitted in the state
206 for any purpose by any person, organization, or entity, the
207 following class III games or other games specified in this
208 section are hereby authorized to be conducted by the Tribe
209 pursuant to the a compact that is substantially in the form
210 provided in s. 285.711:

211 (a) Slot machines, as defined in s. 551.102(8).

212 ~~(b) Games of poker without betting limits if such games are~~
213 ~~authorized in this state to any person for any purpose.~~

214 ~~(b)-(c)~~ Banking or banked card games, including baccarat,
215 chemin de fer, and blackjack or 21 at the tribal facilities in
216 Broward County, Collier County, and Hillsborough County.



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217 (c) Raffles and drawings.

218 (13)~~(16)~~ Notwithstanding any other provision of state law,
219 it is not a crime for a person to participate in the games
220 specified in subsection (12) ~~(15)~~ at a tribal facility operating
221 under the ~~a~~ compact entered into pursuant to this section ~~act~~.

222 Section 2. Section 285.711, Florida Statutes, is repealed.

223 Section 3. Section 285.712, Florida Statutes, is created to
224 read:

225 285.712 Tribal-state gaming compacts.—

226 (1) The Governor is the designated state officer
227 responsible for negotiating and executing, on behalf of the
228 state, tribal-state gaming compacts with federally recognized
229 Indian tribes located within the state pursuant to the federal
230 Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168
231 and 25 U.S.C. ss. 2701 et seq., for the purpose of authorizing
232 class III gaming, as defined in that act, on Indian lands within
233 the state.

234 (2) Any tribal-state compact relating to gaming activities
235 which is entered into by an Indian tribe in this state and the
236 Governor pursuant to subsection (1) must be conditioned upon
237 ratification by the Legislature.

238 (3) Following completion of negotiations and execution of a
239 compact, the Governor shall submit a copy of the executed
240 tribal-state compact to the President of the Senate and the
241 Speaker of the House of Representatives as soon as it is
242 executed. To be effective, the compact must be ratified by both
243 houses of the Legislature by a majority vote of the members
244 present. The Governor shall file the executed compact with the
245 Secretary of State pursuant to s. 15.01.



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246 (4) Upon receipt of an act ratifying a tribal-state
247 compact, the Secretary of State shall forward a copy of the
248 executed compact and the ratifying act to the United States
249 Secretary of the Interior for his or her review and approval, in
250 accordance with 25 U.S.C. s. 2710(8)(d).

251 Section 4. Section 26 of chapter 2009-170, Laws of Florida,
252 is amended to read:

253 Section 26. Sections 1 through 3 of this act and this
254 section shall take effect upon becoming law. ~~Sections 4 through~~
255 ~~25 shall take effect only if the Governor and an authorized~~
256 ~~representative of the Seminole Tribe of Florida execute an~~
257 ~~Indian Gaming Compact pursuant to the Indian Gaming Regulatory~~
258 ~~Act of 1988 and requirements of this act, only if the compact is~~
259 ~~ratified by the Legislature, and only if the compact is approved~~
260 ~~or deemed approved, and not voided pursuant to the terms of this~~
261 ~~act, by the Department of the Interior, and such sections take~~
262 ~~effect on the date that the approved compact is published in the~~
263 ~~Federal Register.~~

264 Section 5. Sections 4 through 25 of chapter 2009-170, Laws
265 of Florida, shall take effect upon this act becoming a law.

266 Section 6. This act shall take effect upon becoming a law.

267
268 ===== T I T L E A M E N D M E N T =====

269 And the title is amended as follows:

270 Delete everything before the enacting clause
271 and insert:

272 A bill to be entitled
273 An act relating to gaming; amending s. 285.710, F.S.,
274 relating to compact authorization; providing



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275 definitions; providing that specified agreements
276 executed by the Seminole Tribe of Florida and the
277 Governor are void and not in effect; ratifying and
278 approving a specified compact executed by the Tribe
279 and the Governor; directing the Governor to cooperate
280 with the Tribe in seeking approval of the compact from
281 the United States Secretary of the Interior; revising
282 powers and duties of the Governor regarding a compact
283 and amendments to a compact between the Tribe and the
284 state; revising a provision that specifies that the
285 compact is invalid if certain provisions are held
286 invalid by a court or the United States Department of
287 the Interior; revising a provision for the effect on
288 the compact of certain changes to the Indian Gaming
289 Regulatory Act; removing a provision directing the
290 Governor to ensure certain funds received are
291 deposited in a specified fund; removing a provision
292 for expiration of certain authority granted to the
293 Governor; removing a provision that expresses
294 legislative intent; revising duties of the Governor to
295 execute an agreement for application of certain state
296 taxes on Indian lands; providing for distribution of
297 certain moneys paid to the state; providing for the
298 calculation and distribution of a local government
299 share of such moneys; revising provisions for moneys
300 remitted by the Tribe to the state before the
301 effective date of the compact; providing for deposit
302 of the moneys into the General Revenue Fund; revising
303 provisions that authorize certain gaming activity;



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304 repealing s. 285.711, F.S., relating to a gaming
305 compact between the Seminole Tribe and the State of
306 Florida; creating 285.712, F.S.; providing that the
307 Governor is the designated state officer responsible
308 for negotiating and executing, on behalf of the state,
309 tribal-state gaming compacts with certain Indian
310 tribes; requiring any such compact to be conditioned
311 on ratification by the Legislature; providing
312 procedures for ratification of a compact and
313 submission to the United States Secretary of the
314 Interior for review and approval; amending s. 26 of
315 chapter 2009-170, Laws of Florida, an act relating to
316 gaming; revising the effective date for provisions of
317 that act to remove contingency requirements applicable
318 to provisions relating to the pari-mutuel industry;
319 providing a date for those provisions to take effect;
320 providing an effective date.