

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Regulated Industries

BILL: SPB 7088

INTRODUCER: For consideration by the Regulated Industries Committee

SUBJECT: 1-year Extension of the Authorization of Banking or Banked Card Games in the Seminole Tribe Gaming Compact

DATE: April 6, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Kraemer</u>	<u>Imhof</u>	_____	<u>Pre-meeting</u>

I. Summary:

SPB 7088 provides that the existing Gaming Compact between the Seminole Tribe of Florida (Tribe) and the State of Florida, which provides that the Tribe may conduct banked card games such as blackjack and baccarat at five of its seven gaming facilities, may be amended to authorize banked card games on the same terms, until July 31, 2016. After that date, banked card games may no longer be conducted by the Tribe. The Governor is authorized and directed to execute an amendment to the Gaming Compact on the same terms and conditions, without further revision, and to seek approval of the amendment from the United States Secretary of the Interior, as required by federal law. Legislative ratification of the amendment is not required, so long as the amendment to the Gaming Compact strictly conforms to the requirements in the bill.

II. Present Situation:

In general, gambling is illegal in Florida.¹ Chapter 849, F.S., prohibits keeping a gambling house,² running a lottery,³ or the manufacture, sale, lease, play, or possession of slot machines.⁴ Certain exceptions have been authorized, with restrictions on permitted locations, operators, and

¹ Section 849.08, F.S.

² Section 849.01, F.S.

³ Section 849.09, F.S.

⁴ Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.

prizes, including penny-ante games,⁵ bingo,⁶ cardrooms,⁷ charitable drawings,⁸ game promotions (sweepstakes),⁹ bowling tournaments,¹⁰ and amusement games and machines.¹¹

Section 7 of Article X of the 1968 State Constitution provides, “Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state.”¹²

Section 15 of Article X of the State Constitution (adopted by the electors in 1986) provides for state operated lotteries:

Lotteries may be operated by the state.... On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Section 24.102, F.S., creates the Department of the Lottery and states the Legislature’s intent that it be self-supporting and revenue-producing and function as an entrepreneurial business enterprise.¹³

Section 23 of Article X of the State Constitution (adopted by the electors in 2004) provides for slot machines in Miami-Dade and Broward Counties:

After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed parimutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such parimutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

⁵ Section 849.085, F.S. Section 849.085(2)(a), F.S., provides that “[p]enny-ante game” means a game or series of games of poker, pinochle, bridge, rummy, canasta, hearts, dominoes, or mah-jongg in which the winnings of any player in a single round, hand, or game do not exceed \$10 in value.”

⁶ Section 849.0931, F.S.

⁷ Section 849.086, F.S.

⁸ Section 849.0935, F.S.

⁹ Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.

¹⁰ Section 849.141, F.S.

¹¹ Section 849.161, F.S.

¹² The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.

¹³ The Department of the Lottery is authorized by s. 15, Art. X, Florida Constitution. Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides the legislative purpose and intent in regard to the lottery.

Chapter 285, F.S., ratified the Gaming Compact¹⁴ between the State of Florida and the Seminole Tribe of Florida (Tribe). It provides that it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the Gaming Compact.¹⁵

Indian Gaming Regulatory Act of 1988

Gaming on Indian lands is governed by the Indian Gaming Regulatory Act (IGRA),¹⁶ which categorizes gaming into three classes:

- “Class I gaming” means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations;¹⁷
- “Class II gaming” includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.¹⁸ Class II gaming may also include certain non-banked card games, but only if the games are permitted (or not explicitly prohibited) by state law, are conducted in compliance with state law,¹⁹ and if:
 - the state in which the tribe is located permits such gaming for any purpose by any person, organization, or entity; and
 - the governing body of the tribe adopts a gaming ordinance that is approved by the Chairman of the National Indian Gaming Commission.²⁰
- “Class III gaming” includes all forms of gaming that are not Class I gaming or Class II gaming, such as house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, and pari-mutuel wagering.²¹

The Indian Gaming Regulatory Act provides that before a tribe may lawfully conduct Class III gaming, certain conditions must be met:

- The particular form of Class III gaming must be allowed in the state in which the tribe is located;
- A gaming compact must be negotiated by the tribe and the state, approved by the Secretary of the United States Department of the Interior, and be in effect; and
- a tribal gaming ordinance must be adopted by the tribe and approved by the Indian Gaming Commission or its chairman.²²

¹⁴ See *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, April 27, 2010 (*Gaming Compact*) at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited April 6, 2015).

¹⁵ See Section 285.710, F.S., especially subsections (3), (13), and (14). The seven tribal locations where gaming is authorized by the compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry). Banked card games are not authorized at the Brighton and Big Cypress casinos.

¹⁶ Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq.*

¹⁷ 25 U.S.C. s. 2703(6).

¹⁸ 25 U.S.C. s. 2703(7).

¹⁹ 25 U.S.C. s. 2703(7)(A)(ii).

²⁰ 25 U.S.C. s. 2710(b)(1).

²¹ 25 U.S.C. s. 2703(8).

²² 25 U.S.C. s. 2710(d).

Seminole Gaming Compact

On April 7, 2010, the Governor and the Seminole Tribe of Florida (Tribe) executed a Gaming Compact governing gambling at the Tribe's seven tribal facilities in Florida.²³ The Gaming Compact authorizes the Tribe to conduct Class III gaming, and was subsequently ratified by the Legislature, with an effective date of July 6, 2010,²⁴ as required by IGRA.

The Gaming Compact has a 20-year term. It grants authority to the Tribe to offer slot machines, raffles and drawings, and any other new game authorized for any person for any purpose, at all seven tribal casinos.²⁵ The Gaming Compact also grants exclusive authorization, for a five-year period that ends July 31, 2015, for the Tribe to conduct banked card games, including blackjack, chemin de fer, and baccarat, at all of its casinos except those at the Brighton and Big Cypress facilities.

If these banked games are authorized for any other person for any other purpose (unless authorized by a compact with the Miccosukee Indians), then the Tribe is authorized to offer banked cards at all seven of its facilities. The exclusive authority to the Tribe for banked card games terminates on July 31, 2015, unless renewed by the Legislature.²⁶

In exchange for the Tribe's exclusive right to conduct slot machine gaming outside of Miami-Dade and Broward counties and the exclusive right throughout the State of Florida to offer banked card games at the specified facilities (these grants of authority are known as the "exclusivity provision"), the Gaming Compact provides for revenue sharing payments to be made by the Tribe to the state. These payments are calculated using amounts known as "net win" amounts, or the total receipts from gaming as described in the Gaming Compact, less all prize payouts and free play or promotional credits issued by the Tribe."²⁷

The revenue sharing payments to be made by the Tribe, and the impact to state revenue attributed to not extending to the Tribe the exclusive right to offer table games after July 31, 2015, are as follows:

- During the initial period (first 24 months), \$12.5 million per month (\$150 million per year);

²³ *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 38833 (hereinafter *Gaming Compact*). See http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited April 6, 2015).

²⁴ Chapter 2010-29, L.O.F.

²⁵ Part IV of *Gaming Compact* at pages 12-13. The Tribe has three gaming facilities located in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa).

²⁶ See Part XVI, Section C. of *Gaming Compact* at page 49.

²⁷ See Part III, Section U. of the *Gaming Compact*, at page 11, which defines "net win" as "the total receipts from the play of all Covered Games less all prize payouts and free play or promotional credits issued by the Tribe." "Covered games" includes slot machines, banking or banked card games including baccarat, chemin de fer, and blackjack (21), raffles and drawings, and any new game authorized by Florida law for any person for any purpose. An exception is made for banked card games conducted by other federally recognized, qualified tribes. See Part III, Section F. of the *Gaming Compact*, at page 3.

- After the initial period (first 24 months), a guaranteed minimum revenue sharing payment of \$233 million for year 3, \$233 million for year 4, and \$234 million for year 5;
- After the initial period (first 24 months), the greater of:
 - the guaranteed minimum payment; 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 5 years, the Tribe will continue to make payments to the state based on the percentage of net win without a guaranteed minimum payment; and
- If the Legislature does not grant another authorization to the Tribe to offer banked card games after July 31, 2015, the net win calculations will exclude the net win from the Tribe's three casino facilities in Broward County. The Legislature's Office of Economic Demographics and Research estimates that annual state revenue will be impacted by a loss of \$136.6 million in the first year after banked card games are no longer authorized to be offered by the Tribe (Fiscal Year 2015-2016),²⁸ and in future years, the estimated losses are:
 - \$164.9 million in Fiscal Year 2016-2017;
 - \$170.0 million in Fiscal Year 2017-2018;
 - \$173.6 million in Fiscal Year 2018-2019; and
 - \$177.3 million in Fiscal Year 2019-2020.

The Gaming Compact also addresses any expansion of gaming in Miami-Dade and Broward counties under the following limited circumstances:

- If new forms of Class III gaming and casino-style gaming are authorized for the eight licensed pari-mutuels located in Broward and Miami-Dade counties, and if the net win from the Tribe's Broward facilities drops for the year after the new gaming begins, then the Tribe may reduce the payments from its Broward facilities by 50 percent of the amount of the reduction in net win.²⁹
- If new forms of Class III gaming and other casino-style gaming are authorized for other locations in Broward and Miami-Dade 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 authorized at any location in Broward and Miami-Dade counties within the first five years of the Gaming Compact, the guaranteed minimum payment would no longer apply to the Tribe's revenue sharing payments, and the \$1 billion guarantee would not be in effect. The Tribe's payments would be based on the applicable percentage of net win.

Revenue sharing payments will no longer be payable by the Tribe³⁰ if:

²⁸ See *Gaming: Revenue Overview* http://edr.state.fl.us/Content/presentations/gaming/GamingRevenueOverview_3-26-15.pdf (March 26, 2015) at page 11 (last visited April 6, 2015).

²⁹ The eight existing pari-mutuel locations are: (1) Calder Race Course—Miami Gardens (Miami-Dade); (2) Dania Jai Alai—Dania Beach (Broward); (3) Gulfstream Park—Hallandale Beach (Broward); (4) Hialeah—Hialeah (Miami-Dade); (5) Isle of Capri/Pompano Park—Pompano Beach (Broward); (6) Magic City/Flagler Greyhound Track—Miami (Miami-Dade); (7) Mardi Gras—Hallandale Beach (Broward); (8) Miami Jai Alai—Miami (Miami-Dade).

³⁰ Termination of revenue sharing is not triggered if the state grants authorization to conduct the following existing games: (1) gaming authorized by compacts with other federally recognized tribes; (2) specified State Lottery games, state-licensed pari-mutuel wagering, and state-licensed card rooms; (3) games authorized pursuant to ch. 849, F.S., as of February 1, 2010

- 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 outside of Broward and Miami-Dade counties that was not authorized for such games before February 1, 2010; and
- The new gaming begins to be offered for private or public use.

Local Government Revenue Share

Local governments in the geographic area where Tribal casinos are located share in the revenue paid for the benefit of exclusivity under the Gaming Compact. Three percent of that revenue is designated as the local government share.³¹ In Fiscal Year 2013-2014, the total local share amount was approximately \$7 million.³² Section 285.710 (10), F.S., provides the following framework for the distributions to local government:

- From the net win derived from the Seminole Indian Casino-Coconut Creek:
 - Broward County 22.5 %
 - City of Coconut Creek 55%
 - City of Coral Springs 12 %
 - City of Margate 8.5 %
 - City of Parkland 2 %
- From the net win derived from the Seminole Indian Casino-Hollywood:
 - Broward County 25 %
 - City of Hollywood 55 %
 - Town of Davie 10 %
 - City of Dania Beach 10 %
- From the net win derived from the Seminole Hard Rock Hotel & Casino-Hollywood:
 - Broward County 25 %
 - City of Hollywood 55 %
 - Town of Davie 10 %
 - City of Dania Beach 10 %
- From the net win derived from the Seminole Indian Casino-Immokalee:
 - Collier County 100 %
- From the net win derived from the Seminole Indian Casino-Brighton:
 - Glades County 100 %
- From the net win derived from the Seminole Indian Casino-Big Cypress:
 - Hendry County 100 %.
- From the net win derived from the Seminole Hard Rock Hotel & Casino-Tampa:
 - Hillsborough County 100 %

(e.g., card rooms, penny-ante games, charitable bingo, sweepstakes, amusement games or machines); (4) slot machines at eight existing pari-mutuel facilities in Broward and Miami-Dade Counties; and (5) specified historic racing machines.

³¹ See s. 285.710(9), F.S.

³² See Revenue Estimating Conference Indian Gaming Revenues, Conference Results at <http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf> (February 19, 2015) (last accessed April 6, 2015).

III. Effect of Proposed Changes:

The bill provides that the existing Gaming Compact between the Seminole Tribe of Florida (Tribe) and the State of Florida, which provides that the Tribe may conduct banked card games such as blackjack and baccarat at five of its seven gaming facilities, may be amended to authorize banked card games on the same terms, until July 31, 2016. After that date, banked card games may no longer be conducted by the Tribe.

The Governor is authorized and directed to execute an amendment to the Gaming Compact on the same terms and conditions, without further revision, and to seek approval of the amendment from the United States Secretary of the Interior, as required by federal law. Legislative ratification of the amendment is not required, so long as the amendment to the Gaming Compact strictly conforms to the requirements in the bill.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

If an amendment to the Gaming Compact is executed by the Seminole Tribe and the State, the existing exclusive authorization to the Seminole Tribe of Florida to offer banking and banked card games (table games) at five of its seven tribal gaming facilities will remain in effect through July 31, 2016 (the extended authorization period). During the extended authorization period, the Seminole Tribe will continue to be obligated to share revenue with the State of Florida using a calculation that will include the net win revenue from the Tribe's casinos in Broward County.

C. Government Sector Impact:

If an amendment to the Gaming Compact is executed by the Seminole Tribe and the State, the existing exclusive authorization to the Seminole Tribe of Florida to offer banking and banked card games (table games) at five of its seven tribal gaming facilities

will remain in effect through July 31, 2016 (the extended authorization period). During the extended authorization period, the Seminole Tribe will continue to be obligated to share revenue with the State of Florida using a calculation that will include the net win revenue from the Tribe's three casinos in Broward County.

According to the Legislature's Office of Economic and Demographic Research, this will impact annual general revenue by approximately \$136.6 million.³³ There will also be an impact upon those counties and municipalities that receive local government share distributions from the revenue sharing payments made by the Seminole Tribe for the benefit of the exclusivity provisions in the Gaming Compact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 285.710 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³³ See *Gaming: Revenue Overview* http://edr.state.fl.us/Content/presentations/gaming/GamingRevenueOverview_3-26-15.pdf (March 26, 2015) at page 11 (last visited April 6, 2015).