



1998 Indian Gaming Compacts. Referendum Statute.

Official Title and Summary Prepared by the Attorney General

1998 INDIAN GAMING COMPACTS. REFERENDUM STATUTE.

- A “Yes” vote approves, a “No” vote rejects a law, previously passed by the Legislature and signed by the Governor, that would:
- Formally approve 11 tribal-state compacts that were concluded in 1998;
- Provide procedures for approving future compacts;
- Declare the Governor responsible for negotiation of compacts; and authorize Governor to waive state’s immunity to suit by tribes.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- If Proposition 1A (on this ballot) is approved, Proposition 29 would have no fiscal impact on state and local governments.
- If Proposition 1A is not approved, Proposition 29 would result in unknown, but probably not significant fiscal impacts on state and local governments.



BACKGROUND

Gambling in California

The State Constitution and various other state laws limit the types of legal gambling that can occur in California. The State Constitution specifically:

- Authorizes the California State Lottery, but prohibits any other lottery.
- Allows horse racing and wagering on the result of races.
- Allows bingo for charitable purposes (regulated by cities and counties).
- Prohibits Nevada- and New Jersey-type casinos.

Other state laws specifically prohibit the operation of slot machines and other gambling devices (such as roulette). With regard to *card* games, state law prohibits: (1) several specific card games (such as twenty-one), (2) “banked” games (where the house has a stake in the outcome of the game), and (3) “percentage” games (where the house collects a given share of the amount wagered).

State law allows card rooms, which can operate any card game not otherwise prohibited. Typically, card room players pay a fee on a per hand or per hour basis to play the games.

Gambling on Indian Land

Gambling on Indian lands is regulated by the 1988 federal Indian Gaming Regulatory Act (IGRA). The IGRA defines gambling under three classes.

- **Class I** gambling includes social games and traditional/ceremonial games. An Indian tribe can offer Class I games without restriction.
- **Class II** gambling includes bingo and certain card games. Class II gambling, however, specifically *excludes* all banked card games. An Indian tribe can offer only the Class II games that are permitted elsewhere in the state.
- **Class III** gambling includes all other forms of gambling such as banked card games (including twenty-one and baccarat), virtually all video or electronic games, slot machines, parimutuel horse race wagering, most forms of lotteries, and craps.

An Indian tribe can operate Class III games only if the tribe and the state have agreed to a tribal-state compact that allows Class III activities. The compact can also include items such as regulatory responsibilities, facility operation guidelines, and licensing requirements. After the state and tribe have reached agreement, the federal government must approve the compact before it is valid.

Gambling on Indian Lands in California

According to the federal Bureau of Indian Affairs, there are over 100 Indian rancherias/reservations in California. Currently, there are about 40 Indian gambling operations in California, which offer a variety of gambling activities.

In the past two years there have been several important developments with regard to Indian gambling in California:

- **April 1998.** The Governor concluded negotiations with the Pala Band of Mission Indians to permit a specific type of Class III gambling on tribal land. The compact resulting from these negotiations—the “Pala” Compact—was subsequently signed by ten other tribes. These 11 compacts were approved in legislation in August of 1998.
- **November 1998.** State voters approved the Tribal

Government Gaming and Economic Self-Sufficiency Act—Proposition 5. The proposition, which amended state law but not the State Constitution, required the state to enter into a specific compact with Indian tribes to allow certain Class III gambling activities.

- **November 1998.** A referendum on the August 1998 legislation approving the 11 Pala compacts qualified for the March 2000 ballot (this proposition). Once qualified, the August 1998 legislation was put “on hold” until the vote on this proposition.
- **August 1999.** Proposition 5 was ruled unconstitutional by the State Supreme Court on the basis that the measure would permit the operation of Nevada- and New Jersey-type casinos.
- **September 1999.** The Governor negotiated and the Legislature approved compacts with 57 tribes—including the tribes that signed the Pala compacts—authorizing certain Class III games. These take the place of all previously approved compacts, including the Pala compacts. These new compacts, however, will become effective only if (1) Proposition 1A (also on the March 2000 ballot) is approved by the voters and (2) the federal government approves the compacts.

PROPOSAL

If approved by the voters, this proposition would allow the Pala compacts approved by the Governor and the Legislature in 1998 to go into effect.

The Pala compact authorizes the operation of Indian “video lottery terminals” if they operate as lotteries, not slot machines. The compact contains a provision that if the terminals are found by the courts to be slot machines, then the compact is void. The Pala compact does not allow any other Class III games (such as twenty-one or craps).

These compacts, however, would *not* go into effect if the voters approve Proposition 1A on this ballot. This is because the newer compacts approved in September 1999 become effective if Proposition 1A is approved and the federal government approves the compacts. In this case, the September 1999 compacts replace all previously approved compacts—including the Pala compacts.

FISCAL EFFECT

The fiscal effect of this proposition depends on voter action on Proposition 1A on this ballot.

If Proposition 1A Is Approved by the Voters. In this case, the Pala compacts would be replaced by newer compacts, and this proposition would have no fiscal effect.

If Proposition 1A Is Not Approved by the Voters. In this case, under Proposition 29 the Pala compacts would become effective. Indian tribes could then operate the lottery-type gambling machines throughout the state. It is, however, difficult to estimate the fiscal effect of the Pala compacts on state and local governments. The actual effect would depend on such factors as (1) a court ruling on the legality of the lottery machines and, if legal, the number of these machines that would be operated throughout the state; and (2) whether Indian gambling as allowed under the Pala compacts diverted much spending from Nevada and other out-of-state sources. The fiscal impact is unknown, but it probably would not be significant.

For text of Proposition 29 see page 146



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Argument in Favor of Proposition 29

Proposition 29 continues a well-reasoned agreement on Indian gambling. Like it or not, federal law required our State and California Indian Tribes to negotiate gambling Compacts.

It took 17 months of intensive negotiations to develop meaningful and fair guidelines for Indian gambling, as required by federal law.

The 1998 Compacts were passed by the Legislature, signed by many Tribes, widely approved by the press, and are workable agreements for both California and the Tribes. Everyone was pleased, except a few wealthy Tribes that were operating (and still operate) illegal casinos.

Some of these wealthy Tribes spent \$2.5 million in an effort to nullify the 1998 Compacts. Their ultimate goal is to bring Nevada-style casinos to California by defeating Proposition 29 (thus nullifying the 1998 Compacts) and then enacting Proposition 1A.

- The 1998 Compacts limit the total number of California slot machines to 19,900, less than half the 42,000 slot machines allowed under Proposition 1A. Without the protection of the 1998 Compacts, California will become a "Las Vegas-by-the-Sea."
- The 1998 Compacts ban banking games, such as blackjack. Proposition 1A allows these "banking and percentage card games," but only in Indian casinos.
- The 1998 Compacts do not allow patrons to gamble on credit in Indian casinos. Proposition 1A permits

gambling on credit.

- The 1998 Compacts clearly spell out local controls by citizens over casino locations, guarantees workers' rights, licensing procedures, background checks, etc. These are modest, enforceable controls that will benefit all of society, not just the casino owners. The 1998 Compacts are far superior to the provisions of Proposition 1A.
- The 1998 Compacts provide for a transitional period for the Tribes to enter into Economic Development Zones in order to become self-sufficient through legitimate, non-gambling businesses, with less reliance on gambling.
- The 1998 Compacts expire after a maximum transition period of 20 years. Without Proposition 29, the way is cleared for wide-open, full-fledged casino gambling in California. To continue the reasonable, workable and fair protections of the 1998 Compacts, vote YES on Proposition 29.

A YES vote on Proposition 29 represents safeguards for both California and the Tribes.

ART CRONEY

Executive Director, Committee on Moral Concerns

HARVEY N. CHINN

California Director, National Coalition Against Gambling Expansion

CHERYL A. SCHMIT

Co-Chair, Stand Up for California

Rebuttal to Argument in Favor of Proposition 29

The compact contained in Proposition 29 is no longer needed because the overwhelming majority of California Tribes have negotiated a subsequent agreement that addresses concerns such as worker safety, the impact on local communities, licensing and many other issues relating to fairness and the public's rights.

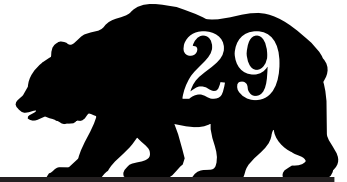
This subsequent agreement will supercede the compact contained in Proposition 29.

Please vote NO on Proposition 29.

RICHARD M. MILANOVICH

Tribal Chairman, Agua Caliente Band of Cahuilla Indians

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Argument Against Proposition 29

California voters should vote NO on Proposition 29—the Indian gaming pacts that were forced on California Indian Tribes.

Fortunately, after voters overwhelmingly passed the Indian gaming initiative, Proposition 5, in November of 1998, the new Legislature and Governor sat down and negotiated new compacts with California Indian tribal leaders.

These new compacts are fair to the Indians and fair to the State. They are on your ballot as Proposition 1A, and almost every California Indian leader strongly supports this important measure. Proposition 1A will replace the unfair compacts that are included in Proposition 29.

California Indians will always be grateful for the people of this state for their overwhelming support in the last election. Despite the huge financial fight by Nevada casino interests, the people voted to give Indians the right to earn a living on their tribal lands.

It means that California Indians can maintain and improve their current gaming facilities. Proposition 29 would end that.

Indian gaming means that thousands of Indians and non-Indians can work in these businesses with good jobs. Proposition 29 would end that.

Indian gaming means that people will have the opportunity to support themselves and their families proudly, and not be dependent on welfare and taxpayer subsidized programs. Proposition 29 would end that.

Indian gaming means the taxpayers are off the hook for the financial costs of poverty that have plagued Native Americans since they were forced on to unproductive lands without any means of supporting themselves. Proposition 29 would end that.

Indian gaming will help all Californians. Already we are bringing some basic needs to many who are living in the most desolate Indian communities—basics like electricity and indoor plumbing, needed health care and pre-natal care for expectant mothers, hope and opportunity, instead of despair. Proposition 29 would end that.

Californians should be proud that they are allowing the ladder of opportunity to reach down for Native Americans too. They can now reach the American dream of providing for themselves and their families.

Indian gaming has created more than \$4 billion in economic activity and \$120 million in tax revenues for the California economy. It has provided the funds for new schools, medical clinics and roads. There is now money for scholarships for the outstanding students who can now dream and realize a quality college education. Proposition 29 would end that too.

Our heartfelt thanks go out to the millions of Californians who have stood with us against some of the biggest special interest groups around. We are on the verge of making life so much better for so many people.

But, we do need your help one more time. Please vote YES on Proposition 1A so we can have a fair compact between the Indian Tribal Governments and the State of California. And, please vote NO on Proposition 29—the compacts forced on the Indians through intimidation and threats. Thank you.

RICHARD M. MILANOVICH
*Tribal Chairman, Agua Caliente Band of Cahuilla
Indians*

Rebuttal to Argument Against Proposition 29

You can't please everyone. But federal law requires California to try.

Proposition 29 is the best possible compromise: It ratifies the 1998 Tribal-State Compacts. These compacts were carefully negotiated, willingly signed by 11 Tribes, signed by the Governor and ratified by the Legislature. They were not "forced" on anyone.

The 1998 Compacts give local control over the location of casinos. They grant local governments power to mitigate traffic, public safety and environmental problems. They ban gambling by 18-year-olds, prohibit gambling on credit and provide for State audits.

By way of contrast, Proposition 1A will PERMANENTLY open the floodgates to massive gambling in California by authorizing 107 Tribes to operate TWO casinos each. The Legislative Analyst states that Proposition 1A will permit up to 113,000 slot machines in Indian casinos. Additionally, dozens more "landless" tribes are seeking to buy land and build casinos.

The 1998 compacts will expire after 20 years. The compacts embody Economic Development Zones, which will provide

economic self-sufficiency while gradually reducing tribal dependence on gambling.

Proposition 29 strikes a good balance between Indian sovereignty and the public interests of all citizens. It's a reasonable, limited and fair approach to Indian gambling. It keeps faith with Proposition 5—self-sufficiency plus economic development for native Americans.

Proposition 29 will provide a better day for Indians, while protecting California from PERMANENTLY becoming another Las Vegas.

Proposition 29 serves the best interests of ALL Californians.

To protect California's future:
Vote NO on Proposition 1A and
Vote YES on Proposition 29

HARVEY CHINN
*California Director, National Coalition Against
Gambling Expansion*

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