

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB RAC 16-01 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida

**SPONSOR(S):** Regulatory Affairs Committee

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Regulatory Affairs Committee		Brown-Blake	Hamon

### SUMMARY ANALYSIS

The Seminole Indian Tribe of Florida (the Tribe) is a federally recognized Indian tribe whose reservations and trust lands are located in the State. Florida entered a compact governing gambling with the Tribe on April 7, 2010 (the 2010 Compact). Gaming compacts are regulated by the Federal Indian Gaming Regulatory Act, s. 25 U.S.C. 2701, et seq., and part II, ch. 285, F.S.

The Division of Pari-mutuel Wagering (Division) within the Department of Business and Professional Regulation (Department), as the State Compliance Agency, has an oversight role in ensuring gaming at the Tribe's facilities is conducted in compliance with the compact.

The bill ratifies and approves the Gaming Compact between the Tribe and the State of Florida, which was executed by Governor Rick Scott and the Tribe on December 7, 2015 (the 2015 Compact). If ratified, the 2015 Compact will supersede the 2010 Compact. The 2015 Compact has a term of 20 years.

The 2015 Compact permits the Tribe to offer the following types of gaming at all its facilities:

- Banked card games, including blackjack, chemin de fer, and baccarat;
- Slot machines;
- Raffles and drawings;
- Live table games, including craps and roulette; and
- Any other game authorized for any person for any purpose, except for games authorized pursuant to a compact with a qualifying Indian Tribe.

The 2015 Compact establishes a guarantee minimum payment period, the seven year period beginning July 1, 2017, and ending June 30, 2024. During the guarantee minimum payment period, the tribe will make payments as specified in the 2015 Compact, to total at least \$3 billion. At the end of the seven year period, a true-up payment may be required if the amount due using the revenue share percentages outlined in the 2015 Compact would have generated more than \$3 billion. After the guarantee minimum payment period, the tribe will make payments based on percentages of net win that range from 13 percent to 25 percent.

The Tribe may stop or reduce revenue sharing payments if the state authorizes specified gaming in violation of the Tribe's exclusivity rights as set forth in the 2015 Compact.

The bill will have a significant positive fiscal impact to the state.

The bill is effective upon becoming law.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### **General Gambling**

In general, gambling is illegal in Florida.<sup>1</sup> Chapter 849, F.S., prohibits keeping a gambling house,<sup>2</sup> running a lottery,<sup>3</sup> or the manufacture, sale, lease, play, or possession of slot machines.<sup>4</sup> Certain exceptions have been authorized, with restrictions on permitted locations, operators, and prizes, including penny-ante games,<sup>5</sup> bingo,<sup>6</sup> cardrooms,<sup>7</sup> charitable drawings,<sup>8</sup> game promotions (sweepstakes),<sup>9</sup> and bowling tournaments.<sup>10</sup>

In 2013, the Legislature clarified that Internet café style gambling machines were illegal in the state. The legislation clarified existing sections of law regarding slot machines, charitable drawings, game promotions, and amusement machines and created a rebuttable presumption that machines used to simulate casino-style games in schemes involving consideration and prize are prohibited slot machines.<sup>11</sup>

In 2015, the Legislature determined that the regulation of the operation of skill-based amusement games and machines would ensure compliance with Florida law and prevent the expansion of casino-style gambling. The Legislature clarified the operation and use of amusement games or machines to ensure that regulations would not be interpreted as creating an exception to the state's general prohibitions against gambling.<sup>12</sup>

##### *Lotteries*

Lotteries are prohibited by the Florida Constitution.<sup>13</sup> The constitutional prohibition is codified in statute at s. 849.09, F.S. Other than the statement in the Florida Constitution that indicates that the term "lottery" does not include "types of pari-mutuel pools authorized by law as of the effective date of this constitution," the term "lottery" is not defined by the Florida Constitution or statute. Generally, a lottery is a scheme which contains three elements: consideration, chance, and prize. As to consideration, while most states view consideration narrowly as a tangible asset, such as money, Florida views consideration broadly, as the conferring of any benefit.<sup>14</sup> Thus, even if players do not pay to participate in a game where they have a chance to win a prize, it may be an illegal lottery.

In 1986, Florida voters approved an amendment to the Florida Constitution to allow the state to operate a lottery. This lottery is known as the Florida Education Lotteries and directs proceeds to the State Education Lotteries Trust Fund.

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<sup>1</sup> s. 849.08, F.S.

<sup>2</sup> s. 849.01, F.S.

<sup>3</sup> s. 849.09, F.S.

<sup>4</sup> s. 849.16, F.S.

<sup>5</sup> s. 849.085, F.S.

<sup>6</sup> s. 849.0931, F.S.

<sup>7</sup> s. 849.086, F.S.

<sup>8</sup> s. 849.0935, F.S.

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

<sup>10</sup> s. 546.10, F.S.

<sup>11</sup> Florida House of Representatives Select Committee on Gaming, Final Bill Analysis of 2013 CS/HB 155, p. 1 (Apr. 19, 2013).

<sup>12</sup> s. 546.10, F.S.

<sup>13</sup> Article X, s. 7, Fla. Const. *But, see*, Article X, s. 15, Fla. Const., authorizing lotteries operated by the state.

<sup>14</sup> *Little River Theatre Corp. v. State ex rel. Hodge*, 135 Fla. 854 (1939).

To allow activities that would otherwise be illegal lotteries, the Legislature has carved out several narrow exceptions to the statutory lottery prohibition. Statutory exceptions are provided for charitable bingo, charitable drawings, and game promotions. Under s. 849.0935, F.S., qualified organizations may conduct drawings by chance, provided the organization has complied with all applicable provisions of ch. 496, F.S. As they contain the three elements of a lottery: consideration, chance, and prize, they are generally prohibited by Florida law unless they meet a statutory exception.<sup>15</sup>

### *Slot Machines*

Slot machines have been generally prohibited in Florida since 1937.<sup>16</sup> Section 849.16, F.S., defines a slot machine as a machine or device that requires the insertion of a piece of money, coin, account number, code, or other object or information to operate and allows the user, whether by application of skill or by reason of any element of chance or of any other outcome of such operation unpredictable by him or her, to receive money, credit, allowance, or thing of value, or secure additional chances or rights to use such machine, apparatus, or device. Slot machines are authorized at certain non-Tribe facilities in Broward and Miami-Dade counties by constitutional amendment or statute and are regulated under ch. 551, F.S.<sup>17</sup>

### *Pari-mutuel Wagering*

Chapter 550, F.S., authorizes pari-mutuel wagering at licensed tracks and frontons and provides for state regulation. Pari-mutuel is defined as "a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes."<sup>18</sup>

Chapter 551, F.S., authorizes slot machine gaming at the location of certain licensed pari-mutuel locations in Miami-Dade County or Broward County and provides for state regulation. Chapter 849, F.S., authorizes cardrooms at certain pari-mutuel facilities.<sup>19</sup> A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.<sup>20</sup>

Except for the Tribal casinos authorized in the 2010 Compact, free-standing, commercial casinos are not authorized, and gaming activity, other than what is expressly authorized, is illegal.

The Division collects revenue in the form of taxes and fees from permitholders for the conduct of gaming activities outlined above. The Division currently makes an annual report to the Governor showing its actions, money received under Chapter 550, F. S., the practical effects of Chapter 550, and any suggestions for more effective accomplishment of the goals of the chapter.<sup>21</sup>

## **Indian Gaming**

### *The Indian Gaming Regulatory Act*

Gambling on Indian lands is subject to federal law, with limited state involvement. The Indian Gaming and Regulatory Act (IGRA), codified at 25 USCA §§ 2701-2721, was enacted in 1988 in response to the United State Supreme Court decision in *California v. Cabazon Band of Mission Indians*, 480 U.S. 202 (1987). The act provides for "a system for joint regulation by tribes and the Federal Government of class II gaming on Indian lands and a system for compacts between tribes and States for regulation of class III gaming."<sup>22</sup> In so doing, IGRA seeks to balance the competing interests of two sovereigns: the

<sup>15</sup> *Little River Theatre Corp.*, *supra* at 868.

<sup>16</sup> s. 849.15, F.S., originally enacted by s. 1, ch. 18143, L.O.F. (1937).

<sup>17</sup> See Article X, Section 23, Florida Constitution; ch. 2010-29, L.O.F. and chapter 551, F.S.

<sup>18</sup> s. 550.002(22), F.S.

<sup>19</sup> Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.

<sup>20</sup> See s. 550.1625(1), F.S., "...legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state."

<sup>21</sup> s. 550.0251(1), F.S.

<sup>22</sup> United States Senate Report No. 100-446, Aug. 3, 1988.

interests of the Tribe in engaging in economic activities for the benefit of its members and the interest of the state in either prohibiting or regulating gaming activities within its borders.<sup>23</sup>

IGRA separates gaming activities into three categories:

- Class I games are “social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.”<sup>24</sup> Class I games are within the exclusive jurisdiction of the Indian tribes.<sup>25</sup>
- Class II games are bingo and card games that are explicitly authorized or are not explicitly prohibited by the laws of the State.<sup>26</sup> The tribes may offer Class II card games “only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.” Class II gaming does not include “any banking card games, including baccarat, chemin de fer, or blackjack (21), or electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.”<sup>27</sup> Class II games are also within the jurisdiction of the Indian tribes, but are also subject to the provisions of IGRA.<sup>28</sup>
- Class III games are defined as any games that are not Class I or Class II. Class III games include slot machine and banked card games such as blackjack, baccarat and chemin de fir.<sup>29</sup>

The tribe can qualify to offer Class III games in the following ways:

- If the state authorizes Class III games for any purpose to any person, organization, or entity, the tribe must:
  - Authorize the games by an ordinance or resolution adopted by the governing body of the Indian tribe, approved by the Chairman of the National Indian Gaming Commission, and in compliance with IGRA; and
  - Conduct the games in conformance with a Tribal-State compact entered into between the tribe and the State.<sup>30</sup>
- If the state does NOT authorize Class III gaming for any purpose by any person, organization, or entity, the tribe must request negotiations for a tribal-state compact governing gaming activities on tribal lands. Upon receiving such a request, the state may be obligated to negotiate with the Indian tribe in good faith.<sup>31</sup> Under IGRA, a tribe is not entitled to a compact.

When the negotiations fail to produce a compact, a tribe may file suit against the state in federal court and seek a determination of whether the state negotiated in good faith. If the court finds the state negotiated in good faith, the tribe's proposal fails. On a finding of lack of good faith, however, the court may order negotiation, then mediation. If the state ultimately rejects a court-appointed mediator's proposal, the Secretary “shall prescribe, in consultation with the Indian tribe, procedures... under which class III gaming may be conducted.”<sup>32</sup>

Generally, in accordance with IRGA a compact may include the following provisions:

- The application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of gaming;

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<sup>23</sup> *Id.*

<sup>24</sup> 25 U.S.C. 2703(6).

<sup>25</sup> 25 U.S.C. 2710(a)(1).

<sup>26</sup> 25 U.S.C. 2703(7)(A).

<sup>27</sup> 25 U.S.C. 2703(7)(B).

<sup>28</sup> 25 U.S.C. 2710(a)(2) and (b).

<sup>29</sup> 25 U.S.C. 2703 and 25 C.F.R. § 502.4.

<sup>30</sup> 25 U.S.C. 2710(d)(1).

<sup>31</sup> 25 U.S.C. 2710 (d)(3)(A).

<sup>32</sup> 25 U.S.C. 2710(d)(7). This option is addressed in *Seminole Tribe of Florida v. Florida*, 517 U.S. 44 (1996), which brought into question whether a tribe has the ability to enforce the provisions of IGRA against a state. The Department of Interior adopted rules to provide a remedy for the tribes. The validity of the rules were also brought into question in *Texas v. United States*, 497 F.3d 491, (5th Cir. 2007).

- The allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of laws and regulations;
- An assessment in an amount necessary to defray the costs of regulation;
- Revenue sharing by the Indian tribe for permitted activities;
- Remedies for breach of contract;
- Standards for the operation of gaming and gaming facilities, including licensing; and
- Any other subjects that are directly related to the operation of gaming activities.<sup>33</sup>

Any compact that is entered into by a tribe and a state will take effect when approval by the Secretary of the Interior is published in the Federal Register.<sup>34</sup> Upon receipt of a proposed compact, the Secretary has 45 days to approve or disapprove the compact.<sup>35</sup> A compact will be considered approved if the Secretary fails to act within the 45-day period. A compact that has not been validly “entered into” by a state and a tribe, e.g. execution of a compact by a state officer who lacks the authority to bind the state, cannot be put “into effect”, even if the Secretary of the Interior publishes the compact in the Federal Register.<sup>36</sup>

There is no explicit provision under IGRA that authorizes revenue sharing. IGRA specifically states:

[N]othing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3) (A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment.<sup>37</sup>

Notwithstanding this restriction, revenue sharing has been permitted when the State has provided a valuable economic benefit to, usually in the form of substantial exclusivity in game offerings or geographic monopoly or a right to conduct such offerings on more favorable terms than non-Indians.<sup>38</sup>

### 2010 Indian Gaming Compact

The Tribe is federally recognized with reservations and trust lands located in the State. Section 285.710, F.S., ratified the gaming compact with the Seminole Tribe of Florida. 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 compact.<sup>39</sup> The 2010 Compact provides for revenue sharing. For the exclusive authority to offer banked card games on tribal lands at five locations and to offer slot machine gaming outside Miami-Dade and Broward Counties, the Tribe pays the State of Florida a share of “net win” (approximately \$240 million per year). Section 285.710(1)(f), F.S., designates the Division as the “state compliance agency” having authority to carry out the state’s oversight responsibilities under the 2010 Compact. The 2010 Compact took effect when published in the Federal Register on July 6, 2010 and lasts for 20 years, with the exception of the authorization for banked card games which lasted five years (until July 31, 2015), expiring July 31, 2030, unless renewed.

The Tribe has seven gambling facilities located on tribal lands as follows:

- The Seminole Indian Casino on the Brighton Indian Reservation in Okeechobee County,
- The Seminole Indian Casino in Immokalee in Collier County,

<sup>33</sup> 25 U.S.C. 2710 (d)(3)(C).

<sup>34</sup> 25 U.S.C. 2710(d)(3)(B).

<sup>35</sup> 25 U.S.C. 2710(d)(8)(C).

<sup>36</sup> See *Pueblo of Santa Ana v. Kelly*, 104 F.3d 1546, (10th Cir. 1997), cert. denied, 522 U.S. 807 (1997).

<sup>37</sup> 25 U.S.C. 2710(d)(4).

<sup>38</sup> See generally *In re Indian Gaming Related Cases*, 331 F.3d 1094 (9th Cir. 2003)(upholding revenue sharing where revenues were apportioned to non-gaming tribes); see also Letter From Gale A. Norton, Secretary of the Department of Interior, to Cyrus Schindler, President of the Seneca Nation of Indians, dated November 12, 2002.

<sup>39</sup> s. 285.710, F.S.

- The Seminole Indian Casino in the City of Hollywood in Broward County,
- The Seminole Indian Casino in the City of Coconut Creek in Broward County,
- The Seminole Hard Rock Hotel & Casino in the City of Hollywood in Broward County,
- The Seminole Indian Big Cypress Casino in the City of Clewiston in Hendry County, and
- The Seminole Hard Rock Hotel & Casino in the City of Tampa in Hillsborough County.

The 2010 Compact permits the Tribe to offer the following games at all seven of its tribal casinos:

- Slot machines;
- Raffles and drawings; and
- Any other game authorized for any person for any purpose, except for a compact with a qualifying Indian Tribe.

Banked card games include blackjack, chemin de fer, and baccarat. The play of the banked card games is not allowed at the Brighton or Big Cypress facilities, but is permitted at the other five facilities.

In exchange for the Tribe's exclusive right to conduct slot machine gaming outside of Miami-Dade and Broward counties and the exclusive right to offer banked card games at the specified facilities, the compact provides for revenue sharing payments to the state<sup>40</sup> as follows:

- During the initial period (first 24 months), the Tribe paid \$12.5 million per month (\$150 million per year).
- During the guarantee minimum payment period (five years), the Tribe guaranteed a payment of \$1 billion but paid a total of \$1.03648 billion in revenue sharing.<sup>41</sup>
- After the guarantee minimum payment period, the Tribe pays based on a variable percentage of annual net win that ranges from 12 percent of net win up to \$2 billion, to 25 percent of net win greater than \$4.5 billion.
- The Tribe is currently making payments to the state based on the percentage of net win without a guaranteed minimum payment.
- The 2010 Compact expires in 2030.

The authorization for banked card games expired after five years in July 2015. The 2010 Compact provided that, in the event that the authorization to offer banked and banking card games is terminated, the Tribe has 90 days to close the games, after which, the state is entitled to seek immediate injunctive relief. Although the 2010 Compact indicated that banked card games be shut down by the Tribe and that revenue sharing payments would be made excluding the net win from the Tribe's facilities in Broward County, the Tribe instead sued the State to continue to offer banked card games and continues to make revenue sharing payments to the state.<sup>42</sup>

The 2010 Compact provides consequences for the expansion of gaming in Miami-Dade and Broward counties:

- If new forms of Class III gaming and casino-style gaming are authorized for the eight licensed pari-mutuel facilities located in Miami-Dade and Broward counties with slot licenses and 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.

<sup>40</sup> Revenues are deposited in the General Revenue Fund.

<sup>41</sup> The Florida Legislature, Office of Economic and Demographic Research, *Proposed 2015 Compact: Revenue Overview*, found at: [http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwiFgpjUqePKAhWCpx4KHSPKaiYQFggiMAE&url=http%3A%2F%2Fedr.state.fl.us%2FContent%2Fpresentations%2Fgaming%2FGamingRevenueOverview\\_3-26-15.pdf&usq=AFQjCNEYD8mjFf5\\_Dn5QGjbg72WJ8xIgGw](http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwiFgpjUqePKAhWCpx4KHSPKaiYQFggiMAE&url=http%3A%2F%2Fedr.state.fl.us%2FContent%2Fpresentations%2Fgaming%2FGamingRevenueOverview_3-26-15.pdf&usq=AFQjCNEYD8mjFf5_Dn5QGjbg72WJ8xIgGw) (last visited February 6, 2016).

<sup>42</sup> The Miami Herald, *Seminole Tribe sues the State despite progress in gaming talks*, located at <http://www.miamiherald.com/news/state/florida/article41460426.html> (last viewed February 10, 2016).

- If new forms of Class III gaming and other casino-style gaming are authorized for other locations in Miami-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.<sup>43</sup>

Revenue sharing payments cease 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 outside of Miami-Dade and Broward 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.

A new compact was signed by the Governor and the Tribe on December 7, 2015 (the 2015 Compact), but must be ratified by the Legislature and approved by the United States Secretary of the Interior to become effective.<sup>44</sup> If the 2015 Compact is ratified and approved, it will provide the Tribe exclusivity to operate certain games, with certain exceptions.<sup>45</sup> In exchange, the Tribe will share revenue with the state with a Guaranteed Minimum Compact Term Payment of \$3 billion over seven years.

## **Effect of the Bill**

### *Ratification*

The bill ratifies and approves the 2015 Compact between the Tribe and the State of Florida. If ratified, the 2015 Compact will supersede the 2010 Compact. Furthermore, the bill requires Governor Scott to cooperate with the Tribe in seeking approval of the 2015 Compact from the United States Secretary of the Interior.

The bill authorizes the Tribe to conduct dice games, such as craps and sic-bo, and wheel games, such as roulette and big six, in addition to the already authorized Class III games.

### *2015 Indian Gaming Compact*

The 2015 Gaming Compact permits the Tribe to offer the following games, termed “covered games,” at all seven of its tribal casinos:

- Banked card games, including blackjack, chemin de fer, and baccarat;
- Slot machines;
- Raffles and drawings;
- Live table games, including craps and roulette; and
- Any other game authorized for any person for any purpose, except for a compact with a qualifying Indian Tribe.

The 2015 Compact provides that “[a]ny of the facilities existing on Indian Lands... may be relocated, expanded, or replaced by another facility on the same Indian Lands with advance notice of sixty (60) calendar days.”

The 2015 Compact places a cap on the number of slot machines, banking or banked card games, and live table games that may be offered by the Tribe.

The 2015 Compact has a term of 20 years.

### *Payments*

<sup>43</sup> The Tribe would automatically be authorized to conduct the same games authorized for any other person at any location.

<sup>44</sup> s. 285.710, F.S.

<sup>45</sup> *2015 Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, p. 43 (Dec. 7, 2015), on file with the Business & Professions Subcommittee.

The 2015 Compact establishes a guarantee minimum payment period that is defined as the seven year period beginning July 1, 2017, and ending June 30, 2024. During the guarantee minimum payment period, the tribe will make payments as specified, to total \$3 billion over seven years. The payments shall be paid by the Tribe to the state as follows:

- During the initial period (from the effective date to June 30, 2017), the Tribe makes payments based on a variable percentage of net win similar to the percentage payments in the 2010 Compact.
- During the guarantee minimum payment period from July 1, 2017 to June 30, 2024, the tribe pays a total of \$3 billion over seven years.
- At the end of the guarantee minimum payment period, if the percentage payments (that range from 13 percent of net win up to \$2 billion, to 25 percent of net win greater than \$4.5 billion) would have amounted to more than the guaranteed minimum payments, the tribe must pay the difference.
- The Tribe's guaranteed minimum revenue sharing payments are:
  - \$325 million – 1<sup>st</sup> year;
  - \$350 million – 2<sup>nd</sup> year;
  - \$375 million – 3<sup>rd</sup> year;
  - \$425 million – 4<sup>th</sup> year;
  - \$475 million – 5<sup>th</sup> year;
  - \$500 million – 6<sup>th</sup> year; and
  - \$550 million – 7<sup>th</sup> year.
- The percentage payments include a 1 percent increase on amounts up to \$2 billion, and a 2.5 percent increase on amounts greater than \$2 billion, up to and including \$3 billion, as compared to the 2010 Compact.
- After the first seven years, the Tribe will continue to make percentage payments to the state without a guaranteed minimum payment.

### *Exclusivity Requirements*

Revenue sharing payments may be affected if the state permits:

- New forms of Class III gaming or other casino-style gaming after July 1, 2015, or Class III gaming or other casino-style gaming at any location not authorized for such games before July 1, 2015;
- Licensed pari-mutuel wagering entities other than the Tribe to offer banked card games;
- Class III gaming at other locations in Miami-Dade, Broward, or Palm Beach counties, except the legislature may add one location in Miami-Dade County with 750 slot machines and 750 video race terminals, if approved by a county-wide referendum, and similarly one location in Palm Beach County;
- Class III gaming to be offered outside of Miami-Dade, Broward, and Palm Beach Counties.

Licensed pari-mutuel wagering entities may not increase the number of slot machines they offer or relocate their facility. If they do so, the guaranteed minimum payments from the Tribe to the state cease and the percentage payments are calculated excluding the Tribe facilities located in Broward County.

The 2015 Compact indicates that internet gaming is not currently permitted in Florida. If the legislature authorizes internet gaming, the guaranteed minimum payments cease, but the percentage payments continue. If the Tribe offers internet gaming to patrons, then the guaranteed minimum payments continue.

### *Exceptions to Violations of the 2015 Compact Exclusivity Requirements*

The 2015 Compact provides that the legislature may authorize non-tribe pari-mutuel wagering entities to conduct the following actions without affecting revenue sharing:



- Licensed pari-mutuel wagering facilities in Miami-Dade and Broward Counties may offer blackjack, subject to limitations;
- One new location in Miami-Dade County may have 750 slot machines and 750 video race terminals, subject to limitations, if approved by a county-wide referendum;
- One new location in Palm Beach may have 750 slot machines and 750 video race terminals, subject to limitations, if approved by a county-wide referendum.

**B. SECTION DIRECTORY:**

**Section 1** amends s. 285.711, F.S., ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on December 7, 2015.

**Section 2** amends s. 285.712(4), F.S., correcting a reference.

**Section 3** provides an effective date.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

The Revenue Estimating Conference (REC) estimated the 2015 Compact will have the following positive fiscal impact to the General Revenue Fund:

<b>Fiscal Year</b>	<b>Current Forecast under 2010 Compact (in millions)</b>	<b>Forecast under 2015 Compact (in millions)</b>	<b>Revenue Increase for the State (in millions)</b>
2015-16	\$215.4	\$286.2	\$70.7
2016-17	\$126.2	\$303.9	\$177.7
2017-18	\$124.4	\$325.0	\$200.6
2018-19	\$126.4	\$350.0	\$223.6
2019-20	\$128.3	\$375.0	\$246.7
2020-21	\$130.3	\$425.0	\$294.7
2021-22	\$132.4	\$475.0	\$342.6
2022-23	\$134.4	\$500.0	\$365.6
2023-24	\$136.5	\$550.0	\$413.5

2. Expenditures:

Indeterminate. Direct costs of regulation are able to be recovered pursuant to the terms of the bill. The Division currently enforces the 2010 Gaming Compact. Any additional expenditure related to law enforcement, courts, infrastructure and social services will likely be minimal and absorbed by current staff.

To offset the cost of regulation, the Division receives an Annual Oversight Assessment, to be paid to the State as reimbursement for the actual and reasonable costs of the Division to perform monitoring functions, as provided for in the 2010 Compact. The assessment shall not exceed \$250,000 per year, indexed for inflation by the Consumer Price Index (CPI), and paid in quarterly installments. The 2015 Compact increases the Annual Oversight Assessment to \$400,000 per year, also indexed as determined by the CPI and paid in quarterly installments.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The bill provides that, of the amounts paid to the state, three percent shall be distributed to local governments, including counties and municipalities, affected by the Tribe's operation of covered games.

Extrapolating from the REC figures, \$8.5 million would be allocated to local governments in FY 2015-16 and \$9.1 million in FY 2016-17.

2. Expenditures:

Indeterminate. There may be expenditures and impacts on local government infrastructure as a result of increased gaming activities.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes a gaming compact that would permit the Tribe to conduct banked card games and live table games at all seven tribal locations. Therefore, the Tribe's facilities will have a revenue increase. The REC estimated the 2015 Compact will have the following positive fiscal impact to the Tribe's net wins:

<b>Fiscal Year</b>	<b>Current Net Win Forecast 2010 Compact (in billions)</b>	<b>Forecast of Net Win 2015 Compact (in billions)</b>	<b>Revenue Increase for the Tribe (in billions)</b>
2015-16	\$1.428	\$2.3077	\$0.8797
2016-17	\$1.0178	\$2.4261	\$1.4083
2017-18	\$1.0382	\$2.4746	\$1.4365
2018-19	\$1.0544	\$2.5132	\$1.4589
2019-20	\$1.0708	\$2.5524	\$1.4816
2020-21	\$1.0875	\$2.5922	\$1.5047
2021-22	\$1.1045	\$2.6327	\$1.5282
2022-23	\$1.1217	\$2.6738	\$1.5521
2023-24	\$1.1392	\$2.7155	\$1.5763

Additionally, the 2010 Compact requires the Tribe to make an annual donation to the Florida Council on Compulsive Gaming (FCCG), in an amount not less than \$250,000 for each facility. The 2015 Compact requires the Tribe to make an annual donation to the FCCG in an amount not less than \$1.75 million.

D. FISCAL COMMENTS:

See above.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**