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**SELECT COMMITTEE ON SEMINOLE  
INDIAN COMPACT REVIEW**

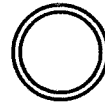
**MONDAY, NOVEMBER 2, 2009  
12:45 – 3:45 p.m.  
Webster Hall**

**MEETING PACKET**

**Larry Cretul  
Speaker**

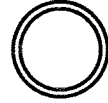
**Rep. Bill Galvano  
Chair**

# A Comparison of CS/CS/SB 788 and 2009 Proposed Compact



**THE SELECT COMMITTEE ON SEMINOLE  
INDIAN COMPACT REVIEW  
NOVEMBER 2, 2009**

# PROVISIONS IN SB 788 AND 2009 PROPOSED COMPACT



- ◆ Guaranteed minimum: \$150 Million
- ◆ Minimum gaming age: 21
- ◆ Definitions of Net Win
- ◆ Compulsive Gambling: training program for employees; education of patrons; list of voluntary excluded patrons; & annual payment of \$250,000 per facility to Florida Council on Gambling
- ◆ Access to emergency services: Tribe must allow unimpeded access by emergency medical services
- ◆ Smoking: provide smoke-free gaming areas and utilize ventilation systems at all newly constructed facilities
- ◆ Administration and Payment of Revenue Share
- ◆ Annual Oversight Assessment made in quarterly installments

## PROVISIONS NOT ADDRESSED IN 2009 PROPOSED COMPACT



- ◆ Status of current revenue payments
- ◆ Requirement that Tribe employ, permit or license only medical professionals licensed by Florida
- ◆ Requirement that Tribe must use its best efforts to spend its revenue in the state and acquire goods and services from Florida-based vendors
- ◆ Requirement that Tribe must maintain employment standards comparable to state and federal standards, including permitting representation by an attorney or other authorized representative well as language interpreters
- ◆ Legislative review in 5 years

## NEW PROVISIONS IN 2009 PROPOSED COMPACT



- Definition for Class II Video Bingo Terminals
- Definition for Electronic Bingo Machines
- Definition for Historic Racing Machines
- Definition for Pari-Mutuel Wagering Activities
- Provision releasing Tribe from Minimum Revenue Share payment if Internet Gaming is authorized – still required to make payments under Percentage Share Revenue Amount

# AUTHORIZED GAMES



## CS/CS/SB 788

- Class III Slot Machines,
- No-limit Poker at all 7 Tribal Facilities, and
- Banked Card Games in Broward and Hillsborough Tribal Facilities

## 2009 Proposed Compact

- Class III slot machines,
- banked card games at all 7 Tribal Facilities,
- raffles and drawings, and
- any new game authorized by law for any person for any purpose

# EXCLUSIVITY



**CS/CS/ SB788**

**2009 Proposed Compact**

- Tribe would have exclusive right to offer Class III slots outside Broward and Miami-Dade, and exclusive right to offer banked card games at facilities in Broward and Tampa

- Tribe would have exclusive right to offer Class III slots games outside Broward and Miami-Dade and exclusive right to offer banked card games and other casino-style at all seven tribal facilities .

# LOSS OF EXCLUSIVITY



**CS/CS/ SB788**

**2009 Proposed Compact**

- Loss of exclusivity and revenue sharing reduction provisions activated if additional class III gaming is authorized

- Loss of exclusivity and revenue sharing reduction provisions activated if Class III gaming or other casino style games not in operation on January 1, 2009 are authorized



# EXCEPTIONS: DO NOT VOID EXCLUSIVITY



## CS/CS/ SB788

- class III gaming authorized under other tribal gaming compacts with federally-recognized tribes;
- the conduct of illegal or unauthorized gaming;
- any class III slots authorized in Miami-Dade and Broward
- video bingo machines or other class II electronic gaming machines, historic racing or PMW activity

## 2009 Proposed Compact

- class III gaming authorized under other tribal gaming compacts with federally-recognized tribes, so long as land was in federal trust as of January 1, 2009;
- class III slots at 7 existing South Florida facilities and Hialeah;
- new class III games authorized for 7 existing South Florida facilities and Hialeah (reduces revenue sharing)

# EXCEPTIONS: DO NOT VOID EXCLUSIVITY

(continued)



**CS/CS/ SB788**

**2009 Proposed Compact**

- class III gaming authorized at any facility in Broward or Miami-Dade other than 7 existing South Florida facilities and Hialeah (eliminates revenue share for Broward)
- historic racing machines and electronic bingo machines authorized outside of Broward and Miami-Dade
- PMW activity
- No-limit poker at card rooms licensed by the State of Florida

# REVENUE SHARING



## CS/CS/ SB788

- \$2-2.5B: 12% net win
- \$2.5-3B: 15% net win
- \$3-4B: 20% net win
- \$4-4.5B: 22.5% net win
- over \$4.5B: 25% net win

## 2009 Proposed Compact

- Initial Period: 30 months at \$12.5M per month
- Up to \$2B: 12% net win
- \$2-3B: 15% net win
- \$3-3.5B: 17.5% net win
- \$3.5-4B: 20% net win
- \$4-4.5B: 22.5% net win
- over \$4.5B: 25% net win

# REVENUE SHARING REDUCTIONS



## CS/CS/ SB788

- Pro rata reduction of payments if additional class III games are authorized AND net win fails to reach \$1.37 billion;

## 2009 Proposed Compact

- Elimination of revenue sharing if Class III gaming or other casino style games not in operation on January 1, 2009 are authorized

# REVENUE SHARING REDUCTIONS

(continued)



**CS/CS/ SB788**

**2009 Proposed Compact**

- If other games like blackjack are authorized at 7 existing South Florida facilities and Hialeah AND net win in a 12-month period after expansion is less than net win in 12 month period before expansion (NRB), then revenue share from Broward facilities will be reduced by 50% of the difference between the two years, but the guaranteed minimum payment isn't reduced
- Full revenue sharing resumes when net win exceeds the NRB

# REVENUE SHARING REDUCTIONS

(continued)



**CS/CS/ SB788**

**2009 Proposed Compact**

- If the expansion of blackjack occurs during the Initial Period, AND net win in a 12-month period after expansion is less than net win in the last 12 month period under the 2007 Compact (Alternate NRB), then revenue share from Broward facilities will be reduced by 50% of the difference between the two years, but the guaranteed minimum payment isn't reduced
- Full revenue sharing resumes when net win exceeds the NRB

# REVENUE SHARING REDUCTIONS

(continued)



**CS/CS/ SB788**

**2009 Proposed Compact**

- ◆ If class III gaming or other casino-style gaming is authorized in Broward or Miami-Dade at facilities other than 7 existing South Florida facilities and Hialeah, and the locations and games were not authorized for play as of January 1, 2009, net win from the Broward facilities is excluded in the calculation of revenue sharing

# SOVEREIGN IMMUNITY & INSURANCE



## CS/CS/ SB788

## 2009 Proposed Compact

- Limited waiver of \$500,000 per person and \$1 million per incident
- Requires insurance of \$1 million per occurrence and \$10 million in the aggregate

- Limits same as State: \$100,000 per person & \$200,000 per occurrence or incident
- insurance coverage up to those amounts is required



# PATRON TORT CLAIMS



## CS/CS/ SB788

- Patron can go directly to court
- Four year statute of limitations for tort claims
- Venue in county where incidence arises

## 2009 Proposed Compact

- Patron must exhaust tribal remedies before going to court
- 4-year statute of limitations, but notice must be given within 3 years or claim is barred
- Venue only in Broward County

# DISPUTE RESOLUTION



## CS/CS/ SB788

- Process of notice of dispute, mediation, and optional nonbinding arbitration for disputes
- Tribe waives immunity from suit for actions arising under the Compact
- State may seek immediate injunctive relief for failure of Tribe to make payments in any court of competent jurisdiction

## 2009 Proposed Compact

- Process of notice of dispute and mediation for disputes
- State & Tribe waives immunity from suit for actions arising under the compact
- Tribe may revoke waiver of immunity if third parties intervene or join in suit
- Parties must provide notice and mediate dispute before it can seek relief in court, even where Tribe fails to make payments under compact
- Suit must be filed first in federal district court, and if that court refuses jurisdiction, may file in state circuit court in Broward County

# INSPECTIONS & OVERSIGHT



## CS/CS/ SB788

- Public and Non-public areas: no notice or concurrent notice
- No limits on the number of random inspections
- Public area inspection during business hours
- Annual slot machine compliance audits
- State Compliance Agency: DBPR

## 2009 Proposed Compact

- Public areas: no notice or concurrent notice; non-public areas: 2 hour notice
- limited to 6 random inspections for each facility
- Public area inspection during business hours
- Annual slot machine compliance audits
- State Compliance Agency: DOR

# MISCELLANEOUS



## CS/CS/ SB788

- Term: 15 years
- Local Government: additional 3% share

## 2009 Proposed Compact

- Term: 20 Years
- Local Government: 3% comes out of State revenue share

# Gaming Compact: A Financial Comparison

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Select Committee on  
Seminole Indian Compact Review

*November 2, 2009*

Presented by:



The Florida Legislature  
Office of Economic and  
Demographic Research  
850.487.1402  
<http://edr.state.fl.us>

# Key Financial Drivers

- Market Share and Competition
  - Number of Locations?
  - Geographic Setting?
  - Competitive Advantages or Disadvantages?
- Types of Games
  - Banked Card Games?
  - Roulette or Roulette-style games and craps or craps-style games?
- Conversion Period from Class II to Class III
- Payment Structure, Terms and Stream
- Recipient of the Dollars



# Compact Provisions in SB 788

<b>SB 788</b>	<b>FY 2009-10</b>	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
	<b>Cash</b>	<b>Cash</b>	<b>Cash</b>	<b>Cash</b>
<i>General Revenue</i>	0.0	0.0	0.0	0.0
<i>State Trust (EETF)</i>	289.0	171.0	171.0	171.0
<b>Total State Impact</b>	289.0	171.0	171.0	171.0
<b>Total Local Impact</b>	3.4	5.1	5.1	5.1
<b>Total Impact (millions)</b>	292.4	176.1	176.1	176.1

Consensus Estimate adopted in June 2009; however, displayed as “Indeterminate” on the official *Measures Affecting Revenue* due to the contingent nature of the law.



# Major Elements of EOG Proposal

- Extension of certain banked card games to all seven facilities instead of two (Broward and Hillsborough).
- 30-month freeze at \$12.5 million per month.
- Once it begins, split revenue-sharing structure with different terms.
- Longer conversion period from Class II to Class III.
- Local share (3%) drawn from the State share.





# EOG Proposal – “Unofficial”

<b>EOG Proposal</b>	<b>FY 2009-10 Cash</b>	<b>FY 2010-11 Cash</b>	<b>FY 2011-12 Cash</b>	<b>FY 2012-13 Cash</b>
<i>General Revenue</i>	0.0	0.0	0.0	0.0
<i>State Trust (EETF)</i>	272.0	145.5	158.3	235.9
<b>Total State Impact</b>	272.0	145.5	158.3	235.9
<b>Total Local Impact</b>	3.0	4.5	4.9	7.3
<b>Total Impact (millions)</b>	275.0	150.0	163.2	243.2

An “unofficial” estimate developed by the Legislative Office of Economic and Demographic Research, assuming the EOG Proposal was effective on the same date as SB 788. The estimate is based on prior conference results regarding net wins and banked card games, reported gaming revenue forecasts, and EDR research on gaming and resort operations.



# Comparison of State Dollars

## STATE DOLLARS AVAILABLE TO EETF (millions)

	SB 788	EOG Proposal	Difference
FY 2009-10	289.0	272.0	-17.0
FY 2010-11	171.0	145.5	-25.5
FY 2011-12	171.0	158.3	-12.7
FY 2012-13	<u>171.0</u>	<u>235.9</u>	<u>64.9</u>
Total	802.0	811.7	9.7

The EOG Proposal has negative numbers in the first three years primarily due to the 30-month freeze at \$12.5 million per month, but it gains in the out years because of the expansion of banked card games to additional facilities. The result over this period: 1.2% difference.



# Capacity Losses...

- While no dollars are directly associated with the additional elements of exclusivity granted by the EOG Proposal, they are not costless.
- To the extent SB 788 allowed capacity for future gambling expansions that are no longer allowed under the EOG Proposal, the tax base is reduced --- resulting in a potential loss to the state that cannot be quantified.

