

HOUSE BILL REPORT

HB 2789

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to exempting financial and commercial information obtained from a federally recognized Indian tribe under the terms of a tribal-state compact from public inspection and copying.

Brief Description: Exempting financial and commercial information obtained from a federally recognized Indian tribe under the terms of a tribal-state compact from public inspection and copying.

Sponsors: Representatives Heavey, Lisk and Wineberry.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 4, 1994, DP.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members:
Representatives Heavey, Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer and Veloria.

Minority Report: Without recommendation. Signed by 1 member: Representative G. Cole, Vice Chair.

Staff: Jim Kelley (786-7166).

Background: State and local agencies must make all public records available to the public for inspection and copying. A "public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency. However, there is a long list of records which are exempt from public inspection and copying.

The Indian Gaming Regulatory Act requires the state to negotiate with Indian tribes over the operation of class III gaming activities upon request of the tribe. The state and the tribes conduct these negotiations as sovereign governments. If the two governments reach an agreement, they enter into a class III gaming compact, signed by both

governments. Usually, the terms of the compact will require the tribe to share sensitive financial and commercial information with the Washington State Gambling Commission.

Summary of Bill: Financial and commercial information obtained from a federally recognized Indian tribe under the terms of a tribal-state class III gaming compact is exempt from the requirement for state agencies to make public records available for inspection and copying.

Fiscal Note: Not requested.

Effective Date: July 1, 1994.

Testimony For: The compacts allow for co-regulation of tribal gambling between the tribes and the state. Effective regulation is based on trust. If the state has to turn sensitive information over to the press or competitors, then the tribes will not be willing to share that information. It is imperative that the state and tribes maintain a good working relationship. The only reason the state has access to this information is because Congress passed a law giving the state a role. These are negotiations between two sovereign states.

Testimony Against: Government records should be open regardless of what they are. Tribal members are citizens of Washington as well. They have a right to this information even if the tribe itself will not disclose it. Where there is an exemption from disclosure, the exemption tends to be used much more broadly than intended. The gambling records in Nevada and New Jersey are open. The tribes have chosen to compact with the state, therefore, the consequence is public disclosure.

Witnesses: (In favor) Frank Miller, Gambling Commission; Jim Metcalf, Tulalip Tribes; and Dawn Vyvyan, Jamestown S'Klallam Tribe. (Opposed) Diana Kramer, Washington Newspaper Publishers; Roland Thompson, Allied Daily Newspapers of Washington; and Becky Bogart, Washington Association of Broadcasters.