

HOUSE BILL REPORT

ESSB 5265

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to approval of agreements between the state and Indian tribes.

Brief Description: Requiring that agreements between the state and Indian tribes be approved by the senate.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Wojahn, Horn, Stevens and Benton).

Brief History:

Committee Activity:

Commerce & Labor: 3/20/97, 4/3/97 [DP].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 5 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Boldt; Clements and Lisk.

Minority Report: Do not pass. Signed by 4 members: Representatives Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Cole and Hatfield.

Staff: Pam Madson (786-7166).

Background: In 1988, Congress enacted the Indian Gaming Regulatory Act (IGRA) to provide a comprehensive scheme to govern gambling on Indian reservations.

IGRA allows tribes to conduct class I gaming without state approval. Class II gaming is allowed as long as the gaming is permitted within the state in which the reservation is located. Class III gaming, which includes casino gaming, may be conducted on tribal lands only if the games are authorized by the governing body of the tribe, approved by the chairman of the national Indian Gaming Commission, located in a state that permits such gaming, and conducted in conformance with a tribal-state compact entered into by the Indian tribe and the state. A tribe that desires to conduct class III gaming must request that the state negotiate a compact. The state must negotiate with the tribe in good faith.

In 1992, the Legislature authorized the Gambling Commission through the director to negotiate tribal compact agreements on behalf of the state and gave the Governor the authority to execute the compacts on behalf of the state. The Legislature also clarified the approval process. Tentative compact agreements are forwarded to the Senate and House of Representatives Commerce and Labor Committees for public hearing and comment. Proposed compacts must be approved by the Gambling Commission after additional public hearing and forwarded to the Governor for review and final approval.

Summary of Bill: The process for approving new or amended tribal-state gaming compacts is modified. When the director of the Gambling Commission reaches a tentative agreement with a tribe, the director must forward the document to the majority and minority leaders of the Senate. The House of Representatives has no role in the approval process. The Senate has until the end of the regular session to approve the new or amended compact. If the Senate fails to approve the compact before the end of the regular session, the Gambling Commission must renegotiate the compact and resubmit the new proposal to the Senate no later than the first day of the next regular session. When the Gambling Commission votes to forward the proposal, the Commission must first forward it to the Senate for approval and then to the Governor.

Technical amendments to existing compacts that do not include changes in the types of games, hours of operation, number of facilities, wagering limit or number of tables need not be approved by the Senate.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Some of the tribal casinos are doing well while others are not. We have been too aggressive in allowing casinos under tribal-state gaming compacts. Senate review and approval of compacts allows a look at whether a compact is in everybody's best interest. There will be increased pressure on casinos in the northern part of the state who draw Canadian participants as Canada allows the use of slot machines. We need a broader debate on whether to allow more casinos and in which areas. We must improve the links between community concerns and the negotiation process under the Gambling Commission.

Testimony Against: Many feel the state-tribal compact negotiation process is working. The Legislature has the ability to have its concerns heard at any time. If a proposed compact comes to the Senate and is not approved, it must continue to come back without a way to bring an end to the negotiation process. It represents a

significant breakdown in tribal government-state government relations, not only on gaming issues but in other areas as well. It is important for the state to have tribes operating within a compact agreement. In the absence of a compact, the state has no jurisdiction to enforce state law on Indian lands regarding gambling. The compact provides the basis for a relationship between the state and the tribe on all aspects of the gambling activity. The proposed process makes it very difficult to negotiate a product then have to wait nine months for the Legislature to convene in order to get approval. Direction given by members of the Senate one year could change with an election and add to the complexity of negotiating a compact. Washington is on the cutting edge of regulatory activity involving the state and the tribes under compacts. This bill is a step backwards.

Testified: (Pro) Senator Ray Schow, Prime Sponsor. (Opposed) John McCoy, Executive Director, Tulalip Tribe; Dawn Vyvyan, Yakima Indian Nation, Jamestown S’Klallam Tribe, Port Gamble S’Klallam Tribe, Swinomish Indian Tribe; Steve Wehrley, Muckelshoot Indian Tribe; and Randy Scott, Quinault Indian Nation. (Comments) Frank Miller, Washington State Gambling Commission.