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The Case Against the California Tribal Casino Compact Amendments

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The Case Against the California Tribal Casino Compact Amendments

A BAD DEAL FOR THE STATE, LOCAL COMMUNITIES, OTHER TRIBES AND CASINO WORKERS

December, 2007

An Update of May 2007 Analysis

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CONTENTS

Summary	1
Politics trumps good public policy	2
Industry overview	3
Tribal gaming flourishes nationwide	3
California – the ultimate jackpot	3
Slots - the Holy Grail	4
High stakes, heavy spending	5
Four major flaws of the 2006 compact amendments	6
Bad deal for the state	6
Bad deal for local communities	7
Bad deal for other tribes	10
Bad deal for casino workers	12
Conclusion	14

SUMMARY

In August 2006, Governor Arnold Schwarzenegger completed negotiations with four of California's wealthiest Indian tribes to allow a vast expansion of tribal casino gambling in the state. The negotiated agreements, called "compacts," authorize the Agua Caliente, Morongo, Sycuan and Pechanga tribes to triple the size of their casinos, fundamentally changing forever the character of their local communities and relegating other California tribes to second-class status.

Worth an estimated \$50 billion, the compacts are a financial windfall for the four tribes.¹ But they are a bad deal for California taxpayers, local communities in which the casinos will be located, the non-compact tribes who are left out of the gambling bonanza and casino workers. Although federal law grants state governors the power to negotiate with the tribes over any "subjects that are directly related to the operations of gaming activities,"² Governor Schwarzenegger failed to address these major shortcomings.

For these reasons, the 2006 compact amendments should be rejected, and renegotiated to compensate the state properly for the exclusive right to operate casinos, ensure meaningful environmental review and mitigation, give local communities a voice, improve the well-being of all tribes and protect the rights of casino employees.

This paper will examine the four major flaws associated with the 2006 compacts:

- Bad deal for the state – The amount of revenue promised to the state is not clearly defined, and is subject to manipulation and underpayment because there is no mechanism for independent verification of the tribes' calculation of what is owed.
- Bad deal for local communities – The compacts do not subject tribal casino expansion and construction to California's environmental laws, and do not give the public the right to review or comment on mitigation for the environmental harm the facilities may cause in local communities.
- Bad deal for non-compact tribes – Four tribes, representing a tiny minority of California tribes—and with very few members, are reaping the lion's share of the benefits of tribal gaming, while other tribes struggle for economic and social survival.
- Bad deal for casino workers – While the tribes stand to make \$50 billion in new profits, their casino workers can earn near poverty-level wages with minimal health and safety standards and lack of affordable health insurance, causing many of them to turn to taxpayer-funded health programs.

In addition, this paper provides an overview of the tribal gaming industry, briefly reviews its history and examines its extraordinary political influence.



Morongo Casino's 270-foot neon lit tower is a replica of a Las Vegas

POLITICS TRUMPS GOOD PUBLIC POLICY

In one of the most memorable moments of his campaign in the 2003 recall election, Governor Schwarzenegger railed against Indian gaming tribes, branding them a “special interest” that did not pay their fair share.³ One year later, in 2004, the tribes spent \$86 million on a statewide ballot initiative through which they sought to circumvent the governor and expand their gambling empires by a direct vote of the people. The governor led the “no” campaign, and the result was a resounding three-to-one margin of defeat for the tribes.⁴

In 2005, the governor himself was badly wounded by a high profile defeat at the polls when a series of initiatives he sponsored was rejected overwhelmingly by voters. Facing what looked like an uphill battle for reelection, he brought in a new team of political operatives and high-level staff, including several aides to former Governor Gray Davis, who would help shape his policy agenda and aid his campaign in the fall of 2006.

One of the first tasks he tackled after the staff shake-up was to execute the amendments to tribal compacts with four of California’s richest tribes. It did not escape notice among political insiders that this complete reversal of his prior position against tribal gaming brought with it the added political benefit of removing the tribes’ incentive to spend \$20 million against his reelection.⁵

A coalition comprised of non-compact tribes, environmentalists, community activists, labor organizations and others convinced the Legislature not to approve these agreements in the final days of the 2006 legislative session. The same compacts were subsequently approved by the Legislature in the 2007 session.

Immediately thereafter, this coalition engaged in an effort to referenda the legislative deals. Despite heavy spending by the four tribes to block the signature gathering effort and several unsuccessful lawsuits against the referenda, on November 19, 2007, initiatives to overturn all four compacts qualified for the February 5 statewide ballot. They will appear as Propositions 94, 95, 96, and 97. Now, California voters will have the option to approve the compacts by voting “yes” or disapprove by voting “no.”

INDUSTRY OVERVIEW

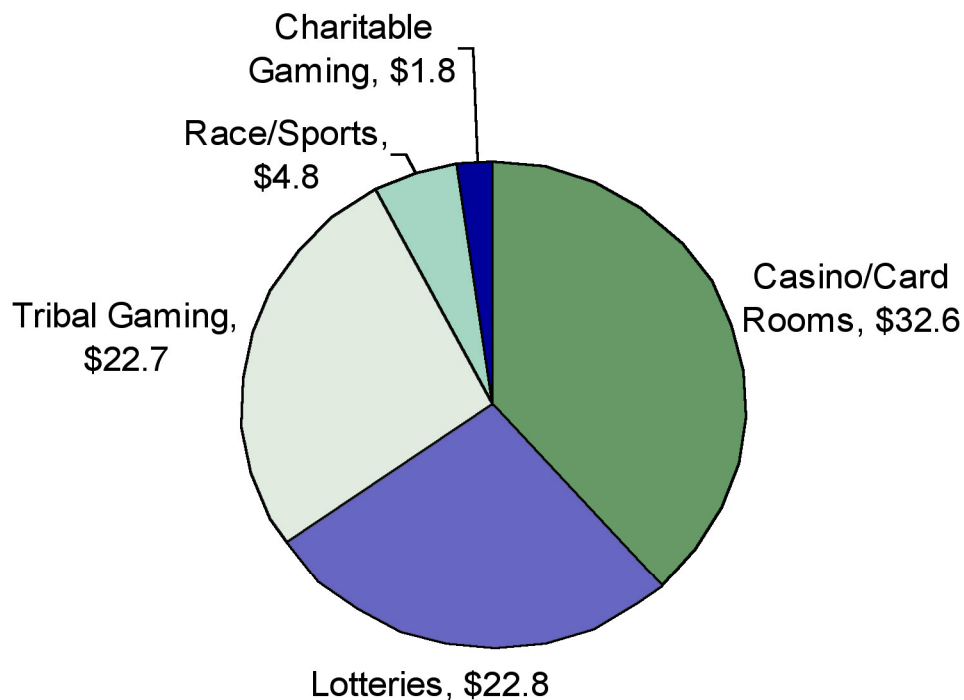
Tribal gaming flourishes nationwide

Tribal casinos are the fastest growing segment of the U.S. gambling industry. In 2005, the last year for which data are available, total U.S. gambling revenues were \$85 billion, of which \$23 billion went to 424 tribal casinos nationwide.⁶

Between 2004 and 2005, inflation-adjusted revenues were down for commercial casinos, charitable gaming, horseracing and sports betting, and were flat for lotteries. By contrast, tribal casino revenues increased by 15 percent nationwide during that same time.

California – the ultimate jackpot

California is the nation's largest market for tribal casinos, with \$7 billion in tribal gaming revenues in 2005. Today, California's tribal casinos collectively take in more than all of the casinos on the Las Vegas strip. In the past five years, the growth rate of tribal casino gambling in California, at 25 percent, was far more than the national average.⁷



Total U.S. gaming revenues
in 2005 (in billions)

Notwithstanding its rapid growth, the industry's expansion in California has been constrained until now by a state-imposed limit on the size of casinos – a limit that will be substantially eliminated by the proposed amendments to the compacts of four of California's richest tribes.

California's existing casinos fall into three categories:

- Small, rural casinos, with an average of 470 slot machines, and fewer than 300 employees. These casinos predominantly serve a remote, local market and are unlikely to attract enough customers to grow beyond their small size.
- Casinos located closer to mid-sized towns and highways, offering nearly three times more slot machines and square footage than the small, rural venues.
- Large casinos, of which there are 16, with an average of 2,100 slot machines and 2,000 employees each. These are located close to major population centers and are well-served by major highways.

	Casinos	Average Slots	Average Employees
Large	16	2,104	1,956
Medium	8	1,307	794
Small	33	470	288

Slots - the Holy Grail

Slot machines are the Holy Grail of the tribal gaming industry, and accordingly, the centerpiece of the proposed compacts. How many slots a tribe controls is the key to dominance of the tribal gaming market. Currently California has only one-third as many slot machines per capita as the other five largest tribal gaming markets in the country – a situation that increases the profits per machine and indicates the potential for growth in the state.

The proposed compacts would more than triple the number of slots for the four tribes. With up to 7,500 slot machines each, as allowed for in the compact amendments, these casinos would house nearly three times more slot machines than the MGM Grand, the largest casino on the Las Vegas strip.⁸

Slot machines are by far the single, greatest revenue generator of the tribal casinos. The Agua Caliente compact shows that each of its current 2,000 slots brings the tribe \$130,000 in net profit annually. That amount, called the “net win,” is what is left after all player prizes have been awarded. Two thousand slots deliver \$260 million per year to the tribe. Slots contribute 75 percent of the tribe's total revenue but they add just eight percent to total operating expenses, making them a disproportionately favorable contributor to the bottom line.⁹

HIGH STAKES, HEAVY SPENDING

In addition to establishing the all-important number of slot machines allowed, California gaming compacts can regulate nearly every other aspect of casino operations. States can require tribes to reach agreements with local governments about the scale and scope of casino operations. States can stipulate environmental protection standards for casino operations. States may require tribes to follow minimum wage laws, or establish higher ones. Although tribal casino employees are not covered by state employment laws, states can impose similar regulations within the compacts.

The all-inclusive power of the state to structure the amount and nature of tribal gaming operations is evidenced by the political activities of the tribes. Since 1998, the California tribal gaming interests have spent \$250 million on politics in the state.

To help sway a positive outcome for its California compact amendments, the Agua Caliente tribe previously hired infamous lobbyists Jack Abramoff and Michael Scanlon, paying them more than \$10 million in fees.¹⁰ Recently, Abramoff pled guilty to three felonies in a wide-reaching political corruption scandal, including a charge of conspiracy to bribe public officials. Documents released by the U.S. Senate Indian Affairs Committee indicate Agua Caliente paid Abramoff and Scanlon \$150,000 per month to advance their gambling empire.¹¹

According to *The Sacramento Bee*, neither the Agua Caliente nor Abramoff reported any of their California lobbying expenditures, as required by state law.¹² The Agua Caliente have said that they are not bound by California's campaign finance rules. The state Fair Political Practices Commission (FPPC) found the tribe failed to disclose \$8 million in political expenditures between 1998 and 2002. In December 2006, the California Supreme Court upheld the FPPC's position, but the tribe appealed the ruling. The suit was finally settled, the tribe agreed to pay \$200,000 and follow the provisions of the Political Reform Act.¹³

The largesse bestowed by the four tribes on state lawmakers has been reported in recent required filings with the California Secretary of State. They collectively spent \$64,876 on perks for lawmakers and their staffs, such as tickets to a Justin Timberlake concert, Sacramento Kings games and Disney on Ice shows, as well as steak dinners, cocktails and other giveaways.

In an attempt to garner public support for the casino expansion deals, the Morongo Tribe spent \$3.2 million on paid precinct walkers, phone callers and statewide TV ads to blanket the state with advertising in favor of the compacts and urging people to ask lawmakers to support them. Together, the Big 4 spent \$2 million on Sacramento lobbyists to influence state legislators during the process. Altogether, the reports of these four tribes show \$32 million in political spending during the time their casino expansion deals were pending.

THE COMPACTS' FOUR MAJOR FLAWS

Bad deal for the state

Revenue sharing between tribes and states is a common feature of tribal gambling compacts. Tribes agree to revenue sharing largely because the state promises to exclude others from the lucrative gambling industry.

Governor Schwarzenegger's principal argument in favor of the casino expansions is that they will generate new money for the state's General Fund. But a close examination of the compact amendments tells a different story: A lack of clear rules and accountability in the compacts themselves renders the revenue sharing promise potentially empty and unenforceable, and pales in comparison to agreements with tribes in other states.

The loophole

Ambiguity in the language of the 2006 compacts could result in dramatically lower payments to the General Fund than promised. Two possible interpretations of the compact produce very different amounts of revenue sharing. Under the interpretation most favorable to the Big 4 tribes, revenue sharing could be reduced by as much as 50 percent depending on how often the Tribes count the new machines as "in operation".

The payments to the state under the compacts are calculated as a percentage of the total "net win" from the new slot machines. The compacts require the tribes to calculate the average net win for all slot machines for each quarter and multiply that by the average number of new slot machines operated in that quarter to determine the total net win from the new machines. An ambiguity in the language could allow the tribes to use the average number of slot machines "in operation" rather than the average number of machines "present" on the casino floor to determine the net win. If some slots are roped off during weekdays, for example, they would not be "in operation." Indeed, this is a common practice in large casinos to concentrate slot patrons in certain areas during off-peak playing times. This lower number could be used to calculate the payments to the state, resulting in lower payments. By taking advantage of this loophole in the compact language, the tribes could significantly reduce the amount of revenue paid to the General Fund. The Assembly held only one hearing on the compact amendments related to a federal lawsuit and failed to uncover this problem.

No independent verification

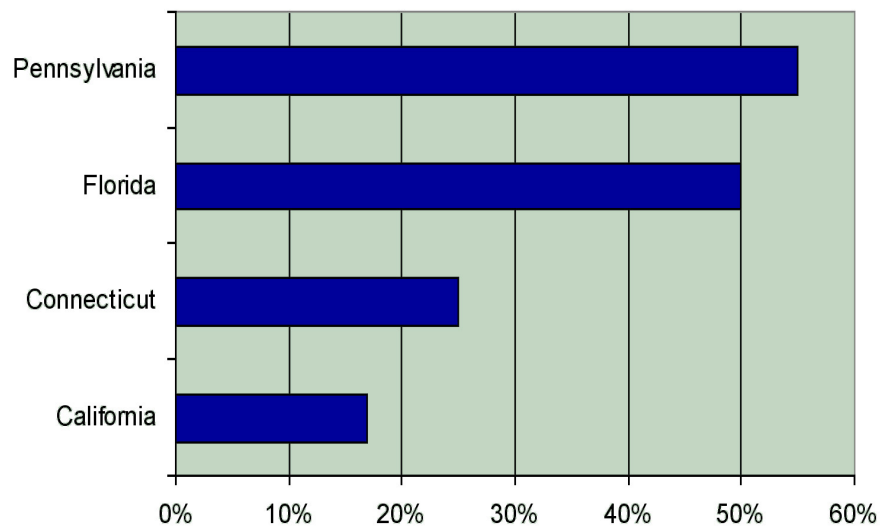
Instead of increasing the transparency and accountability surrounding the most important public policy benefit of these agreements, the revenue sharing, the compact amendments allow the four tribes to calculate their own net win and then tell the state what contributions they will make. Previous compacts adopted in 2004 required the net win calculation to be prepared by an independent certified public accountant who is not employed by the tribe. In contrast, the 2006 compacts allow the net win calculation to be prepared by "the chief financial officer of the Gaming Operation or other duly authorized representative of the Tribe."¹⁴

Text of past compacts (United Auburn, Pala, Rumsey, Me-Wuk, Viejas and others):

United Auburn Section 4.3.3. d(iii) *“The semiannual payments based upon 10% of the net win attributable to the number of Gaming Devices specified in Section 4.3.1, subdivision (a)(i) and (ii) shall be accompanied by a certification of the net win calculation prepared by an independent certified public accountant who is not employed by the Tribe, the Tribal Gaming Agency, or the Gaming Operation, is only otherwise retained by any of these entities to conduct regulatory audits, and has no financial interest in any of these entities.”*

The Big 4 compacts’ language is identical, but for one significant and purposeful change:

Morongo Compact Section 4.3.1 (h) *“The quarterly payments made pursuant to subdivision (c) shall be accompanied by a certification of the Net Win calculation prepared by the chief financial officer of the Gaming Operation or other duly authorized representative of the Tribe.”*



Comparison of recent tribal and commercial gambling revenue sharing agreements among states.

Revenue sharing falls far short compared with revenue sharing agreements in other states

Even if we are to assume the state General Fund sees the full 15-25 percent of these tribal casinos’ net win, with an average 12.6 percent of gaming revenues to California, it’s an amount worth only one-half the revenue sharing between Connecticut and its two gaming tribes, and only one-quarter of the amount agreed upon in Pennsylvania and Florida.

The Administration estimated \$500 million in new General Fund revenues in the first year and as much as \$700 million per year over the 23-year term of the agreements.

If California had achieved the same agreement as Pennsylvania and Florida, the state’s General Fund would have been entitled to triple the amount for which the governor settled.

If the governor had secured a deal in line with Connecticut's, the state General Fund would earn \$1.1 billion per year. In either case, and at a time when California is facing a fiscal emergency, it appears the governor vastly undersold this historic expansion of gambling in the state.

Empty promise for education

One of the major selling points of the compacts put forward by the tribes in their TV ads is that their contributions to the General Fund would be a \$9 billion windfall for California schools.¹⁵ A deeper analysis of the facts reveals that potentially not one dollar of the tribal revenues may go to education.

Proposition 98, the law that guarantees a certain amount of all state tax revenues shall go toward education, is based on "tax" revenues. The funds contributed by the tribes to the state are not tax revenues, and therefore are not subject to the Proposition 98 guarantee.

Revenues from past tribal compacts have been used entirely to fund non-education expenditures, at the direction of the Legislature through the budget process. Nothing in the 2006 compacts stipulates that future tribal gaming revenues will be used for education, and there is no indication that state lawmakers will use these revenues differently from the way they have been used in the past, for non-education, non-Proposition 98 purposes.

Local funding jeopardized

Compounding the financial shortcomings, the proposed compacts jeopardize \$140 million currently paid by tribes into a fund that provides grants to local governments, among other things. The independent Legislative Analyst's Office (LAO) reports that these funds "would drop substantially as several tribes with large casinos would cease making payments to the [fund.]"¹⁶

The LAO predicted fund revenues would decline by more than 50 percent under the new agreements and "may be depleted within one to three years."¹⁷ Alternatively, if grants to local communities and other programs supported by this fund, such as gambling addiction programs, are to be maintained at current levels, the shortfalls would have to be made up from the General Fund, reducing the financial value of the new agreements even further. There is no guarantee the Legislature would appropriate General Fund dollars to make up for local governments' lost gaming revenues, or that the governor himself would not use these funds for other purposes.

Bad deal for local communities

The 2006 compacts allow the tribes to add thousands of new slot machines to their existing facilities without conducting any review of the environmental consequences, without consulting local officials, without local community support and without doing anything to mitigate the added traffic and public safety impacts.

Compacts silence community input on environmental impacts

The 2006 compacts do not require the four tribes to comply with the California Environmental Quality Act (CEQA), and they weaken previous environmental protection policies that were part of past compacts. In place of CEQA, the tribes are required to undertake a tribal environmental impact report (TEIR), a process for casino development that has some resemblance to CEQA. However, the elimination of specific environmental safeguards in the 2006 compacts puts local communities at risk of serious environmental harm.

The 2006 compact deals fail to include the previously standard 55-day local comment period following the Final TEIR – the only opportunity the public has for input on mitigation requirements. Barring public input at this critical phase of the environmental review process is entirely inconsistent with CEQA. Under the compact deals, the tribes could finalize the TEIR the very day they reach agreement with the counties on mitigation measures, with no chance for public review or comment.

The compacts require a TEIR and an intergovernmental mitigation agreement only for *new construction*, but not for the expansion of slots in their existing facilities. At least three of the four tribes already have significantly expanded their gaming facilities in recent years in anticipation of the new compacts. Therefore, the TEIR, as well as the intergovernmental agreement, may never be triggered. The additional slot machines allowed under the new compacts will drive more patrons to the establishment, create more traffic, more congestion, more pollution and greater wear and tear on local infrastructure, all without the benefit of meaningful environmental review, mitigation or public input.

Major league traffic

Casinos of the four tribes currently range in size from 150,000 to 450,000 square feet, and employ an estimated 12,500 out of a statewide total of 54,000 industry employees. They have the potential to grow enormously, and accordingly, the potential to destroy the character of the communities in which they are located.

Each mega-casino would generate an estimated 27,000¹⁸ car trips per day. By comparison, PETCO Park, the downtown home of the San Diego Padres, and ARCO Arena, the Sacramento Kings' stadium, are two facilities that are similar in scale to these huge new casinos. PETCO Park spans 657,000 square feet and has a seating capacity of 42,445 fans. ARCO Arena covers 442,000 square feet and has a seating capacity of 17,317.

If the similar-sized Foxwoods Casino is any guide, each of the four Southern California casino communities would play host to the equivalent of a sold-out Padres game *and* an almost sold-out Kings game every weekend night as customers visit the new, expanded gambling establishments. Operating 24 hours a day, 365 days a year, these casinos have the potential to have significant negative environmental consequences, and permanently alter the character of the communities in which they are located, all without going through a legitimate environmental review process.

Compacts encourage rapid growth, not smart growth

Past compacts have included revenue sharing formulas with the state that discourage rapid expansion. By contrast, the 2006 compacts establish a new formula for revenue sharing with the state that encourages casino growth. The new revenue formula is based on the average of net win across all machines rather than a simple flat fee for each new machine installed, the new formula allows the tribes to pay less and less per machine to the state as they add more and more slot machines. The structure of payments to the state encourages maximum deployment of allowed slot machines as quickly as possible. Consequently the negative environmental impacts of the casinos, especially traffic, will be substantial, making all the more egregious the lack of any meaningful environmental review.

Poor track record on environment

Some of the Big 4 tribes already have a poor track record on environmental protection issues.

- ❖ According to the *Los Angeles Times*, Agua Caliente poses multiple threats to bighorn sheep habitat. The tribe sued the U.S. Fish and Wildlife Service in 2005 seeking to withdraw special protection of 844,000 acres for the endangered sheep. The tribe claimed that the “critical habitat” designation could cost them “hundreds of millions of dollars” in future development revenues, even though only 17,000 of the protected acres are on reservation land.¹⁹
- ❖ Agua Caliente is seeking to acquire an estimated ten square miles of Coachella Valley land, including negotiating with the federal government to trade six square miles of prime developable land in the mountains south of Palm Springs. The land is reportedly endangered bighorn sheep habitat. According to the Center for Biological Diversity “the reduction in critical habitat would be one of the largest-ever acreage cuts for an endangered species.”²⁰
- ❖ While environmentalists are locked in a battle to preserve Coachella Valley’s ecologically sensitive Chino Canyon from large-scale development, the Agua Caliente announced an agreement with the same developer to develop tribally-owned property in Chino Canyon.²¹
- ❖ Pechanga is currently constructing a new casino golf course on 296 acres of land it recently acquired. The tribe acquired the environmentally sensitive land through an application to take the land into federal trust in 2003. At the time of its application, Pechanga said no development on the site was anticipated, and consequently the tribe found no need for environmental mitigation for the federal decision to take the land into trust for the Tribe. The grading for the Tribe’s golf course began only after the transfer of land was completed. Without the transfer, the lands could have been a key component of the Riverside County Multiple Species Habitat Conservation Plan.

Bad deal for other tribes and most California Indians

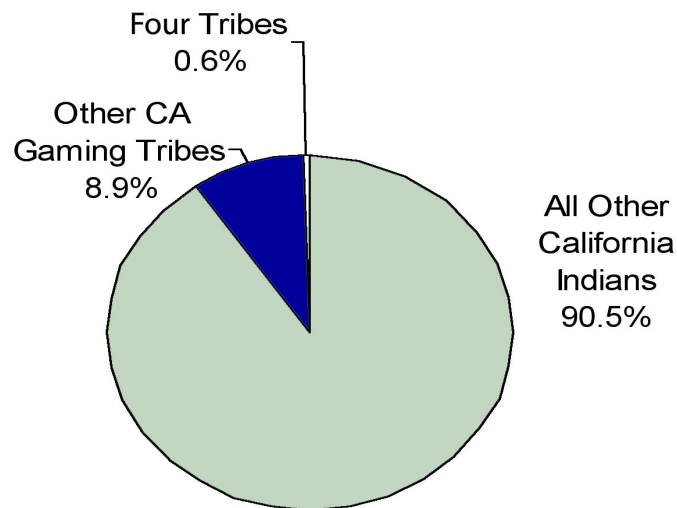
The concentrated market power among four of the wealthiest tribes that would follow from the proposed compacts is a far cry from the federal government's original rationale that Indian gaming would help poor tribes.²²

In the spring of 2000, industry proponents told California voters in a ballot argument "Indian gaming on tribal lands has replaced welfare with work, despair with hope and dependency with self-reliance." Voters saw television ads featuring Indians in poverty to make their argument. Yet seven years later, as the industry surpasses \$7 billion per year, and four wealthy tribes are poised to cash in on their political strategy, the original promise is largely unfulfilled. What has happened instead is that a small group has benefited greatly, while the vast majority of Indians in California have seen little change in their fortunes.

Gap widens between rich and poor tribes

Since the industry's inception, its spoils have been unevenly distributed. Nine percent of California's Indians are enrolled in a tribe with a gaming compact, and only an estimated 0.6 percent benefit from the pending four compacts. The National Gambling Impact Study Commission (NGISC) reported in 1998 that just ten tribes, out of 106 with casinos, accounted for one-half of the industry's net income of \$1.9 billion nationwide.²³ The more recent figures from NIGC show the trend has worsened over time, with just five percent of tribal gaming casinos accounting for 43 percent of total industry revenues in 2005, the last year for which data are available.²⁴

Combined, the total membership of the Agua Caliente, Morongo, Sycuan and Pechanga tribes comprises approximately one-half the population of one large California tribe, the Quechan, and one-third of the Yurok tribe, yet their deal is estimated to be worth a lopsided \$50 billion in new tribal revenue. Their combined market share is expected to rise exponentially from nearly 16 percent to as much as 31 percent, depending on the extent to which they take over market share from other tribes.



Four tribes comprise 0.6 percent of the state's Indian population.

Competition between tribes for the right to operate casinos has been intense, but the latest deals suggest the wealthiest tribes are winning out, often at the expense of poor tribes. A *Los Angeles Times* article published during compact deliberations in August 2006 demonstrated this troubling trend in the tribal gaming industry. The article reported the growing divide between the state's rich and poor tribes. It showed the sharp elbow tactics used by some of the rich tribes to maintain their dominance of the state's lucrative industry.

Los Coyotes in rural San Diego County is a member of the latter group without a ratified compact. Los Coyotes successfully executed a compact with the governor in 2005, but that compact was not ratified after intense opposition from the tribes operating the state's biggest and most profitable casinos. Ironically, it was the image of Francine Kupsch of the Los Coyotes tribe that was beamed across the state when the industry went to the ballot seeking permission to operate tribal casinos.²⁵

Location lottery

On one side are the small, rich tribes, such as Agua Caliente, Morongo, Pechanga and Sycuan, who benefit from the historical accident of a good location. Their reservations are located near major highways and large populations. On the other side, are the often larger tribes, with bigger and frequently poorer populations, who didn't win the "location lottery."

Those tribes located near large population centers and served by good roads are the clear winners in California. There are nearly three million people living within 50 miles of the four wealthy tribes, more than three times the average nearby population for all other tribal casinos combined. Perhaps the biggest winner in the location lottery is the Agua Caliente tribe which has two casinos, one located in the middle of downtown Palm Springs, and the other less than 1,000 feet from off ramps to Interstate 10, one of Southern California's busiest highways.

The four tribes in the 2006 compacts also are located near more wealthy areas of the state, and have turned location advantage into market and political dominance. Their nearby populations have 13 percent higher median incomes than populations near all other tribal casinos.

As a nominal gesture to the tribes left out of the deals, the state has agreed to grant \$1.1 million in annual casino revenues to all tribes without casinos. However, the Legislative Analyst's Office (LAO) said the state fund from which these monies would be paid "may be depleted within one to three years," forcing the state to dip into the General Fund to make up the shortfall, again undermining the governor's strongest argument in support of the new deals.

Regardless of the scale of their need, the poor, less influential tribes with the worst locations stand to gain nothing from the 2006 compact amendments.

Bad deal for workers

In a stark juxtaposition, the 2006 compacts – worth an estimated \$50 billion in new profits stemming from a government enforced monopoly on slot machines – lack even the most basic protections for tribal casino workers. Unlike the rest of California’s workforce, tribal casino employees are not guaranteed the state minimum wage or overtime protections, or decent working conditions, and they are not covered by state health and safety laws. When coupled with the prevailing low wages, employee health benefits are often priced out of reach of employees and their families, leaving them with no choice but to seek taxpayer-funded health care or go without health services at all.

Hard work, low wages

A 2003 report on Agua Caliente wages and benefits showed that the average wage for employees of Agua Caliente was \$8.93 per hour, or about \$16,967 per year. At these low wages, the study found 28 percent of casino employees were forced to work a second job to make ends meet.²⁶ A more recent figure put forward by the tribe during compact hearings claimed an average wage of \$11.45 per hour, which calculates to \$23,816 per year at forty hours per week, a figure that is still just 15 percent above the federal poverty guideline for a family of four.²⁷

In November 2007, the Morongo Casino published minimum starting wages for 20 occupations covered by its tribal labor relations ordinance on its job posting web site including \$8 for cashiers and stewards and \$9 for a part-time job as a hotel room attendant.²⁸ If these jobs were forty hours per week, the gross pay would be \$16,640 and \$18,720 per year. The median minimum starting wage for all non-tipped jobs listed on the website was \$9.50, or \$19,760 per year if forty hours per week, placing them below the federal poverty line for a family of four. In 2004, the least expensive family health plans offered to employees cost 14.5 percent of the starting wage for non-tipped workers, putting them \$4,000 below the federal poverty threshold for a family of four, according to the HHS Poverty Guidelines.²⁹ At these wages, a better choice for Morongo employees was to seek taxpayer-funded health care for their children or no health insurance at all. After its compact amendment failed to win approval in August 2006, Morongo Casino instituted family health insurance at no cost to its employees, but there’s absolutely no guarantee that this policy will be continued once the Tribe gets its new slot machines.

Weak health and safety protections

California has been at the nation’s forefront in developing workplace protections, but tribal casino employees will not benefit from these strong health and safety standards. Language in the gaming compacts negotiated between the four tribes and the governor reject the higher standards of California law, and instead place them under the far weaker jurisdiction of federal law.

A recent New York Times expose showed federal OSHA’s negligence when it comes to enforcing workplace safety. Under the Bush Administration, federal OSHA has issued the fewest significant standards in its history, and passed only one major safety rule.³⁰ Alternatively, California boasts some of the strongest laws in the country when it comes to injury prevention, exposure to chemicals and occupational injuries, such as repetitive motion injuries. In contrast, the Bush Administration repealed the federal ergonomics standard shortly after the president took office.

CONCLUSION

This report demonstrates why the compacts negotiated with four tribes by Governor Schwarzenegger in 2006 should be rejected by California voters. Although increased state revenue sharing is the principal argument in favor of the compacts, in reality, the agreements may provide just 0.5 percent of state General Fund revenue. The Legislative Analyst's Office (LAO) found even these projections "not realistic."

The rules determining the amount of revenue sharing are subject to manipulation and the amounts are not required to be verified by an independent auditor. Contrary to the tribes' claims, nothing in the compacts or California law requires any of the revenues to be used for education. The LAO also warned of the potential negative effects of the compacts on vital state programs that help non-gaming tribes, and assist local governments in financing the public safety services that are necessary to cope with the impacts of expanded tribal casino gambling.

Local communities in which the mega-casinos will be housed have been cut out entirely from the development approval process. Slot machine expansion is exempt from meaningful environmental review and mitigation, and the right of the public to comment during the most important part of the process is non-existent.

The compacts are inconsistent with the original rationale for legalization of tribal casinos – to improve the economic viability of all tribes. Instead, the wealthiest tribes, which happen to be the largest political contributors, have won lucrative expansion deals while doing nothing to increase revenue sharing opportunities for even the poorest tribes.

Last, although the compacts will bring \$50 billion in profits to just four tribes, nothing in the compacts requires decent wages, working conditions or affordable health care for casino workers, leaving many employees and their families to rely on taxpayer-funded health insurance programs.

The state of California has a compelling interest in securing tribal gaming compacts that protect the state taxpayers, the environment, local communities and the majority of the Indian population that has been left out of the process. The compacts of 2006 achieve none of these objectives, and should be rejected by the voters.

ENDNOTES

- ¹ Office of the Governor. August 08, 2006. Press release. <http://gov.ca.gov/index.php?print-version/press-release/3479/> The press release puts the net win at \$320 per day, per machine. The net win of 22,500 new machines over 23 years is thus an estimated \$60.4 billion.
- ² Indian Gaming Regulatory Act. Public law 100-497-Oct. 17, 1988 100th Congress Sec. 2701 (32.C.vii)
- ³ Chet Barfield, "Schwarzenegger pushes gaming initiatives' defeat," *San Diego Union Tribune*. October 15, 2004.
- ⁴ The governor signed new and amended compacts with nine tribes in 2004, but due to opposition from some of the state's wealthiest tribes, those compacts have not been ratified by the Legislature.
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