

# SENATE BILL REPORT

## SB 6856

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, February 1, 2006

**Title:** An act relating to removing expiration dates for state consent to federal court jurisdiction in actions under the Indian gaming regulatory act.

**Brief Description:** Concerning jurisdiction under the Indian gaming regulatory act.

**Sponsors:** Senators Prentice, Esser, Kohl-Welles and Rasmussen.

**Brief History:**

**Committee Activity:** Labor, Commerce, Research & Development: 1/31/06, 2/1/06 [DP, DNP].

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### SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

**Minority Report:** Do not pass.

Signed by Senators Parlette, Ranking Minority Member; Hewitt and Honeyford.

**Staff:** John Dziedzic (786-7784)

**Background:** Under the Indian Gaming Regulatory Act (IGRA), enacted by Congress in 1988, a tribe may not conduct class III gambling on Indian land unless the state and the tribe have a compact governing the specific form of gambling. Class III gaming typically includes banking card games, slot machines, pari-mutuel racing, lotteries, and electronic games of chance.

IGRA requires that the state negotiate with the tribes in "good faith." If the state refuses to negotiate or the tribe alleges the state is not negotiating in "good faith," IGRA authorizes the tribe to sue the state in federal court. In 1996, the United States Supreme Court ruled that this provision authorizing tribes to sue a state for failure to negotiate in good faith violates the state's sovereign immunity under the 11th Amendment of the United States Constitution. If a state chooses to assert its sovereign immunity defense, this portion of IGRA is rendered inoperable.

State legislation was enacted in 2001 consenting to the jurisdiction of the federal courts in any action brought by the tribes before July 30, 2007 to settle disputes arising under IGRA or tribal-state compacts. The waiver of sovereign immunity is conditioned upon the tribe having a tribal-state gaming compact, and upon a similar waiver of sovereign immunity by the tribe bringing the action.

**Summary of Bill:** The statute's expiration date is deleted. Actions to settle tribal-state disputes arising under IGRA may be brought on and after July 30, 2007.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** The temporary waiver of sovereign immunity has accomplished what it was designed to do: give confidence to all sides in an IGRA-governed negotiation that there is an effective enforcement mechanism in place to resolve disputes. Two of the three tribes that had not entered into compacts with the state before this law was enacted have since successfully negotiated agreements, and the state is currently in negotiations with the other. The law has not resulted in litigation between the state and tribes, it has prevented it. It is time to make the limited waiver permanent.

**Testimony Against:** None.

**Testimony Other:** The Gambling Commission has taken no position on this bill.

**Who Testified:** PRO: Senator Prentice, Prime Sponsor, Mike Moran Quileute and Samish Tribes; Steve Wehrly, Muckleshoot Tribe.

OTHER: Neal Nunamaker, Gambling Commission.