

SENATE BILL REPORT

HB 1706

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, March 27, 2007

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: Representatives Conway, Hunt, Wood, Hurst, Simpson and Appleton.

Brief History: Passed House: 3/07/07, 67-27.

Committee Activity: Labor, Commerce, Research & Development: 3/26/07, 3/27/07 [DP, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass.

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

Minority Report: Do not pass.

Signed by Senators Clements, Ranking Minority Member; Hewitt and Holmquist.

Staff: Kathleen Buchli (786-7488)

Background: Under the Indian Gaming Regulatory Act (IGRA), enacted by Congress in 1988, a tribe may not conduct class III gaming on Indian land unless the state and the tribe have a compact governing the specific form of gambling.

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 the 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

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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.

Staff Summary of Public Testimony: PRO: The ability to bring suit in federal court is important because, if a lawsuit is possible, both sides will work together to prevent the lawsuit from happening. Compacts have to be renegotiated; they have to negotiate for new activities any time the compact is up for renewal. It is important that this section be permanent, and it is not necessary to have expiration dates. There will never be a scenario where the state would waive jurisdiction and the tribe would not. The state's waiver is contingent on the tribe waiving jurisdiction. The Gambling Commission supports pushing the expiration date on the section out further rather than removing it altogether.

Persons Testifying: PRO: Michael Moran, Quileute, Quinault, Samish, Hoh Tribes; Amy Hunter, Washington State Gambling Commission; Christine Masse, Kalispell, Jamestown S'Klallam Tribes.