

# SENATE BILL REPORT

## SB 5055

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As Reported By Senate Committee On:  
Labor, Commerce, Research & Development, February 12, 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:** Senators Prentice, Kohl-Welles, Keiser and Kline.

**Brief History:**

**Committee Activity:** Labor, Commerce, Research & Development: 1/29/07, 2/12/07 [DP, DNP].

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### 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 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: This bill keeps contracts enforceable. The waiver of sovereign immunity is a mutual waiver between the state and the tribe. No lawsuits have been filed so far under this waiver of jurisdiction. This waiver is a limited waiver that applies only to the tribal/state gaming compacts. The compacts do not have expiration dates, and the state would be reciprocating by not putting a new expiration date on the bill.

OTHER: The expiration date should be extended rather than eliminated entirely.

**Persons Testifying:** PRO: Michael Moran, Samish Tribe, Hoh Tribe, Quileute Tribe; and Chris Masse, Kalispell Tribe, Jamestown S'Klallam Tribe.

Other: Amy Hunter, Washington State Gambling Commission.