

CHAPTER 2010-29

Committee Substitute for Senate Bill No. 622

An act relating to gaming; amending s. 285.710, F.S., relating to compact authorization; providing definitions; providing that specified agreements executed by the Seminole Tribe of Florida and the Governor are void and not in effect; ratifying and approving a specified compact executed by the Tribe and the Governor; directing the Governor to cooperate with the Tribe in seeking approval of the compact from the United States Secretary of the Interior; revising powers and duties of the Governor regarding a compact and amendments to a compact between the Tribe and the state; revising a provision that specifies that the compact is invalid if certain provisions are held invalid by a court or the United States Department of the Interior; revising a provision for the effect on the compact of certain changes to the Indian Gaming Regulatory Act; removing a provision directing the Governor to ensure certain funds received are deposited in a specified fund; removing a provision for expiration of certain authority granted to the Governor; removing a provision that expresses legislative intent; revising duties of the Governor to execute an agreement for application of certain state taxes on Indian lands; providing for distribution of certain moneys paid to the state; providing for the calculation and distribution of a local government share of such moneys; revising provisions for moneys remitted by the Tribe to the state before the effective date of the compact; providing for deposit of the moneys into the General Revenue Fund; revising provisions that authorize certain gaming activity; repealing s. 285.711, F.S., relating to a gaming compact between the Seminole Tribe and the State of Florida; creating s. 285.712, F.S.; providing that the Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with certain Indian tribes; requiring any such compact to be conditioned on ratification by the Legislature; providing procedures for ratification of a compact and submission to the United States Secretary of the Interior for review and approval; amending s. 26 of chapter 2009-170, Laws of Florida, an act relating to gaming; revising the effective date for provisions of that act to remove contingency requirements applicable to provisions relating to the pari-mutuel industry; providing a date for those provisions to take effect; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 285.710, Florida Statutes, is amended to read:

285.710 Compact authorization.—

(1) ~~As Terms used in this section, the term: have the same meaning as provided in s. 285.711.~~

(a) “Compact” means the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed on April 7, 2010.

(b) “Covered games” means the games authorized for the Seminole Tribe of Florida under the compact.

(c) “Documents” means books, records, electronic, magnetic and computer media documents, and other writings and materials, copies thereof, and information contained therein.

(d) “Indian Gaming Regulatory Act” or “IGRA” means the Indian Gaming Regulatory Act, Pub. L. No. 100-497, Oct. 17, 1988, 102 Stat. 2467, codified at 25 U.S.C. ss. 2701 et seq., and 18 U.S.C. ss. 1166-1168.

(e) “State” means the State of Florida.

(f) “State compliance agency” means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation which is designated as the state agency having the authority to carry out the state’s oversight responsibilities under the compact.

(g) “Tribe” means the Seminole Tribe of Florida or any affiliate thereof conducting activities pursuant to the compact under the authority of the Seminole Tribe of Florida have the same meaning as provided in s. 285.711.

(2)(a) The agreement executed by the Governor and the Tribe on November 14, 2007, published in the Federal Register on January 7, 2008, and subsequently invalidated by the Florida Supreme Court in the case of *Florida House of Representatives, et al. v. The Honorable Charles J. Crist*, No. SC07-2154, (2008), is not ratified or approved by the Legislature, and is void, and is not in effect.

(b) The agreement executed by the Governor and the Tribe on August 28, 2009, and August 31, 2009, respectively, and transmitted to the President of the Senate and the Speaker of the House of Representatives, is not ratified or approved by the Legislature, is void, and is not in effect.

(3) The Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 7, 2010, is ratified and approved. The Governor shall cooperate with the Tribe in seeking approval of the compact from the United States Secretary of the Interior.

~~(3) Subject to the limitations in s. 285.711, the Governor is hereby authorized and directed to negotiate and execute a compact on behalf of the state with the Tribe pursuant to the federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168, and 25 U.S.C. ss. 2701 et seq., and this act for the purpose of authorizing Class III gaming on Seminole lands within this state. Any such compact shall not be deemed entered into by the state unless and until it is ratified by the Legislature.~~

~~(4) The Governor is authorized to bind the state to any amendment to the compact that is consistent with the terms and standards in this section and s. 285.711, provided that any amendment to provisions relating to covered games, the amount of revenue sharing payments, suspension or reduction of payments, or exclusivity shall require ratification by the Legislature.~~

~~(5)(a) The Governor shall provide a copy of the compact to the President of the Senate and the Speaker of the House of Representatives as soon as it is executed. The compact shall not be submitted to the Department of the Interior by or on behalf of the state or the Tribe until it has been ratified by the Legislature.~~

~~(b) The Governor shall provide a copy of any amendment to the compact to the President of the Senate and the Speaker of the House of Representatives as soon as it is executed and before or simultaneous with its submission to the Department of the Interior, provided that any amendment requiring ratification by the Legislature shall not be submitted to the Department of the Interior for approval until such ratification has occurred.~~

~~(4)(6) The Governor shall preserve all documents, if any, which relate to the intent or interpretation of the compact, and maintain such documents for at least the term of the compact.~~

~~(5)(7) If any provision of the compact relating to covered games, revenue-sharing payments, suspension or reduction in payments, or exclusivity is held by a court of competent jurisdiction or by the Department of the Interior to be invalid, the compact is void.~~

~~(6)(8) If In the event that a subsequent change to the Indian Gaming Regulatory Act, or to an implementing regulation thereof, mandates the retroactive application of such change without the respective consent of the state or Tribe, the compact is void if the change it materially alters any provision the terms and standards in the compact relating to the covered games, revenue-sharing payments, suspension or reduction of payments, or exclusivity.~~

~~(9) The Governor shall ensure that all revenue sharing received pursuant to the compact and agreement executed by the Governor and the Tribe on November 14, 2007, is deposited into the Education Enhancement Trust Fund provided that, if necessary to comply with any covenant established pursuant to s. 1013.68(4), s. 1013.70(1), or s. 1013.737(3), funds transferred to the Educational Enhancement Trust Fund shall be first available to pay debt service on lottery bonds issued to fund school construction in the event lottery revenues are insufficient for such purpose or to satisfy debt service reserve requirements established in connection with lottery bonds.~~

~~(10) Except for the authority granted to the Governor in subsections (4) and (13), the authority granted to the Governor by this section and s. 285.711 expires at 11:59 p.m. on August 31, 2009.~~

~~(11) It is the intent of the Legislature to review a compact entered into under the provisions of this section within 5 years after the compact is approved. It is the intent of the Legislature to consider the authorization of additional Class III games for operation by the Tribe based upon successful implementation of the compact and the history of compliance with the compact.~~

~~(7)(12)~~ The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation is designated as the state compliance agency having the authority to carry out the state’s oversight responsibilities under the a compact authorized by this section act.

~~(8)(13)(a)~~ The Governor is authorized ~~and directed~~ to execute an agreement on behalf of the state of Florida with the Indian tribes in this state, acting on a government-to-government basis, to develop and implement a fair and workable arrangement to apply state taxes on persons and transactions on Indian lands. Such agreements shall address the imposition of specific taxes, including sales taxes and exemptions from those taxes.

(b) The agreement shall address the Tribe’s collection and remittance of sales taxes imposed by chapter 212 to the Department of Revenue. The sales taxes collected and remitted by the Tribe shall be based on all sales to non-tribal members, except those non-tribal members who hold valid exemption certificates issued by the Department of Revenue, exempting the sales from taxes imposed by chapter 212.

(c) The agreement shall require the Tribe to register with the Department of Revenue and remit to the Department of Revenue the taxes collected.

(d) The agreement shall require the Tribe to retain for at least a period of 5 years records of all sales to non-tribal members which are subject to taxation under chapter 212. The agreement shall permit the Department of Revenue to conduct an audit not more often than annually in order to verify such collections. The agreement shall require the Tribe to provide reasonable access during normal operating hours to records of transactions subject to the taxes collected.

(e) The agreement shall provide a procedure for the resolution of any disputes about the amounts collected pursuant to the agreement. For purposes of the agreement for the collection and remittance of sales taxes, the agreement must provide that the Tribe agrees to waive its immunity, except that the state may seek monetary damages limited to the amount of taxes owed.

(f) An agreement executed by the Governor pursuant to the authority granted in this section shall not take effect unless ratified by the Legislature.

(9) The moneys paid by the Tribe to the state for the benefit of exclusivity under the compact ratified by this section shall be deposited into the General Revenue Fund. Three percent of the amount paid by the Tribe to the state

shall be designated as the local government share and shall be distributed as provided in subsections (10) and (11).

(10) The calculations necessary to determine the local government share distributions shall be made by the state compliance agency based upon the net win per facility as provided by the Tribe. The local government share attributable to each casino shall be distributed as follows:

(a) Broward County shall receive 22.5 percent, the City of Coconut Creek shall receive 55 percent, the City of Coral Springs shall receive 12 percent, the City of Margate shall receive 8.5 percent, and the City of Parkland shall receive 2 percent of the local government share derived from the Seminole Indian Casino-Coconut Creek.

(b) Broward County shall receive 25 percent, the City of Hollywood shall receive 55 percent, the Town of Davie shall receive 10 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Indian Casino-Hollywood.

(c) Broward County shall receive 25 percent, the City of Hollywood shall receive 55 percent, the Town of Davie shall receive 10 percent, and the City of Dania Beach shall receive 10 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Hollywood.

(d) Collier County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Immokalee.

(e) Glades County shall receive 100 percent of the local government share derived from the Seminole Indian Casino- Brighton.

(f) Hendry County shall receive 100 percent of the local government share derived from the Seminole Indian Casino-Big Cypress.

(g) Hillsborough County shall receive 100 percent of the local government share derived from the Seminole Hard Rock Hotel & Casino-Tampa.

(11) Upon receipt of the annual audited revenue figures from the Tribe and completion of the calculations as provided in subsection (10), the state compliance agency shall certify the results to the Chief Financial Officer and shall request the distributions to be paid from the General Revenue Fund within 30 days after authorization of nonoperating budget authority pursuant to s. 216.181(12).

~~(12)(14) Any moneys remitted by the Tribe before the effective date of the a compact shall be deposited into the General Revenue Fund and are entered into by the state and the Tribe pursuant to this act shall be deemed forfeited by the Tribe and released to the state without further obligation or encumbrance. The Legislature further finds that acceptance and appropriation of such funds does not legitimize, validate, or otherwise ratify any previously proposed compact or the operation of class III games by the Tribe~~

for any period prior to the effective date of the a valid compact pursuant to this act.

~~(13)~~(15) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the a compact that is substantially in the form provided in s. 285.711:

(a) Slot machines, as defined in s. 551.102(8).

~~(b)~~ Games of poker without betting limits if such games are authorized in this state to any person for any purpose.

~~(b)~~(e) Banking or banked card games, including baccarat, chemin de fer, and blackjack or 21 at the tribal facilities in Broward County, Collier County, and Hillsborough County.

(c) Raffles and drawings.

~~(14)~~(16) Notwithstanding any other provision of state law, it is not a crime for a person to participate in the games specified in subsection ~~(13)~~ (15) at a tribal facility operating under the a compact entered into pursuant to this section act.

Section 2. Section 285.711, Florida Statutes, is repealed.

Section 3. Section 285.712, Florida Statutes, is created to read:

285.712 Tribal-state gaming compacts.—

(1) The Governor is the designated state officer responsible for negotiating and executing, on behalf of the state, tribal-state gaming compacts with federally recognized Indian tribes located within the state pursuant to the federal Indian Gaming Regulatory Act of 1988, 18 U.S.C. ss. 1166-1168 and 25 U.S.C. ss. 2701 et seq., for the purpose of authorizing class III gaming, as defined in that act, on Indian lands within the state.

(2) Any tribal-state compact relating to gaming activities which is entered into by an Indian tribe in this state and the Governor pursuant to subsection (1) must be conditioned upon ratification by the Legislature.

(3) Following completion of negotiations and execution of a compact, the Governor shall submit a copy of the executed tribal-state compact to the President of the Senate and the Speaker of the House of Representatives as soon as it is executed. To be effective, the compact must be ratified by both houses of the Legislature by a majority vote of the members present. The Governor shall file the executed compact with the Secretary of State pursuant to s. 15.01.

(4) Upon receipt of an act ratifying a tribal-state compact, the Secretary of State shall forward a copy of the executed compact and the ratifying act to the United States Secretary of the Interior for his or her review and approval, in accordance with 25 U.S.C. s. 2710(8)(d).

Section 4. Section 26 of chapter 2009-170, Laws of Florida, is amended to read:

~~Section 26. Sections 1 through 3 of this act and this section shall take effect upon becoming law. Sections 4 through 25 shall take effect only if the Governor and an authorized representative of the Seminole Tribe of Florida execute an Indian Gaming Compact pursuant to the Indian Gaming Regulatory Act of 1988 and requirements of this act, only if the compact is ratified by the Legislature, and only if the compact is approved or deemed approved, and not voided pursuant to the terms of this act, by the Department of the Interior, and such sections take effect on the date that the approved compact is published in the Federal Register.~~

Section 5. Sections 4 through 25 of chapter 2009-170, Laws of Florida, shall take effect July 1, 2010.

Section 6. This act shall take effect upon becoming a law.

Approved by the Governor April 28, 2010.

Filed in Office Secretary of State April 28, 2010.