

ASSEMBLY THIRD READING

AB 341 (Ramos, et al.)

As Amended March 15, 2023

Majority vote

SUMMARY

This bill would reinstate a gambling moratorium until January 1, 2043, related to the expansion of cardroom gaming and the issuance of new gambling licenses in the state, except as provided in the bill.

Major Provisions

- 1) Creates a prohibition (moratorium) until January 1, 2043, that in addition to any other limitation on the expansion of gambling, as defined, the California Gambling Control Commission (CGCC/commission) shall not issue a gambling license for a gambling establishment that was not licensed to operate on December 31, 1999, unless an application to operate that establishment was on file with the California Department of Justice Bureau of Gambling Control (DOJ or Bureau) prior to September 1, 2000, as specified.
- 2) Provides that an application for a gambling license for a gambling establishment that was not licensed to operate on December 31, 2022, that is "pending" before the CGCC as of January 1, 2024, shall not be approved by the commission.
- 3) States a gambling license for a gambling establishment that was not licensed to operate on December 31, 2022, and that was "issued" between December 31, 2022, and January 1, 2024, shall be invalid.
- 4) Provides until January 1, 2043, a governing body or the electors of a city, county, or city and county that has not authorized legal gambling within its boundaries prior to January 1, 1996, shall not authorize legal gambling, as defined. An ordinance in effect on January 1, 1996, that authorizes legal gambling within a city, county, or city and county shall not be amended to expand gambling in that jurisdiction beyond that permitted on January 1, 1996, as specified.
- 5) Authorizes a city, county, or city and county to amend its ordinance to increase the number of gambling tables that may be operated in a gambling establishment that operates 20 or fewer tables, by up to two additional tables the first year after the ordinance takes effect, and up to two additional tables every four years thereafter, not to exceed 10 additional tables above the number of tables operated at the gambling establishment on January 1, 2023, as specified.
- 6) States that an ordinance that was approved by a majority of the voters in a city, county, or city and county in an election that occurred after November 1, 2020, that authorized an increase in the number of gambling tables at a gambling establishment, and that became operative on January 1, 2023, as the result of the recently repealed moratorium, shall remain operative on and after January 1, 2024, as specified.
- 7) States that any amendment to an ordinance or adoption of an ordinance on or after January 1, 2023, by a city, county, or city and county resulting in an expansion of gambling that was not

authorized or permitted under the Act as of December 31, 2022, or that is not authorized or permitted under the defined provisions shall be invalid and preempted.

- 8) States that the provisions of this bill are severable. If any provision of this bill or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

COMMENTS

Card clubs are one of California's oldest forms of legal gambling. Currently, 83 cardrooms in 32 counties in California are licensed to operate more than 2,100 gaming tables, many of which are located in Los Angeles, the Central Coast, the Bay Area, and the Central Valley. A small percentage are large in scale, the rest are smaller operations (one to two tables) scattered throughout the State. Cardrooms in California are privately owned. That is, no public corporations can invest in the clubs.

Unlike tribal or commercial casinos, cardrooms do not offer slot machines or video poker. In addition to poker and Texas Hold'Em type games, they offer cardroom versions of card games like Blackjack, Baccarat, Three Card Poker, and Pai Gow Poker that must be approved by the Bureau and are subject to local ordinance requirements.

Because of California gaming regulations, players do not play against the house but rather against each other. As a result, each cardroom charges a player's fee. This is how a cardroom generates revenue rather than the traditional Las Vegas casino style, in which the house doesn't charge a fee and relies instead on actually banking the game.

The CGCC and the Bureau are responsible for the development of policy, regulatory oversight, and enforcement of the state's gaming laws at California card clubs. Local governments also regulate California card clubs. At the local level, gaming interests must secure a gaming ordinance. The Bureau and CGCC must then approve the ordinance. Local ordinances must be approved by the host jurisdiction. A newly proposed cardroom or an expansion of gambling, as defined, is subject to a vote and/or referendum by the voters in that jurisdiction.

It has been reported that card club operations directly and indirectly support more than 23,000 jobs in California. The cardroom industry generates more than \$2 billion in economic activity each year and contributes hundreds of millions of dollars to local communities and the state in tax revenue. Cardroom tax revenues help communities fund important local services such as park maintenance, police and fire services, and local road repairs. Some California card clubs generate more than half of the total tax revenue for the municipal general funds in their home cities. For example, one city estimates that casino payments make up about 70 percent of its general fund revenue.

History and Background of Recently Expired Moratorium. Prior to January 2023, there were two statutory moratoriums that restricted the growth of card clubs in California. One moratorium prohibited the state from issuing licenses for new gambling establishments. The other limited licensed gaming establishments from expanding the number of tables and hours they operate. Most local jurisdictions have modified their gambling ordinances to realize the maximum amount of growth allowed by the prior prohibition. As stated above, each of these moratoriums expired/sunsetted on January 1, 2023.

The prior moratorium allowed/prohibited the following actions relating to cardroom licensure and expansion (Business and Professions Code Section 19962 and 19963):

1) Prohibited the California Gambling Control Commission until January 1, 2023, from issuing a new gambling establishment that was not licensed prior to December 31, 1999 or did not have an application on file with the Department of Justice prior to September 1, 2000.

2) Prohibited, until January 1, 2023, an ordinance in effect on January 1, 1996, that authorizes legal gaming within a city, county, or city and county from being amended to expand gaming in that jurisdiction beyond that permitted on January 1, 1996, with minor exceptions. In essence, local jurisdictions could not pass ordinances that either authorize legal gambling, or amend their existing ordinances in a way that would constitute an expansion of gambling.

The moratorium restricting the expansion of existing gambling establishments and licensing of new establishments began in 1995. A five-year moratorium was put in place by the enactment of SB 100 (Maddy), Chapter 387, Statutes of 1995. Since this initial moratorium, legislation continuing both moratoriums has been continually enacted. Most recently, AB 1168 (Gipson), Chapter 744, Statutes of 2018 extended the moratorium by three years, from January 1, 2020, to January 1, 2023.

It should be noted that since the enactment of the original moratorium in 1995, the Legislature passed several laws allowing gambling establishments to expand the number of tables in a licensed establishment. The last expansion of tables was enacted in AB 1039 (Hall), Chapter 745, Statutes of 2013, which allowed a city, county, or city and county to amend its local ordinance to increase the number of tables by two, above the number of tables authorized by local ordinance in effect on January 1, 2013. Most local jurisdictions have modified their local ordinances to realize the maximum amount of growth authorized by law.

Despite the expiration of the recent moratorium, existing cardrooms seeking to increase their authorized permanent tables, or individuals seeking to own or operate a new cardroom, must be in compliance with all relevant federal, state, and local laws. Local ordinances limit the number of permanent gaming tables or gambling establishments allowed in their jurisdiction. Any application or request submitted must not exceed the gaming allowances provided by the local jurisdiction.

The CGCC states that they cannot approve a request for an increase in authorized tables, or approve an application for a gambling license to own or operate a new cardroom, without the corresponding local jurisdiction having already enacted a gambling ordinance or expanded their existing gambling ordinance in compliance with current law.

Cardrooms in the City of San Jose. A provision in the bill would resolve an outstanding issue relating to the City of San Jose's cardroom gaming operations. AB 341 would allow for the implementation of a previous local ballot measure (Measure H of 2020) that was approved (72.63% to 27.37%) by San Jose voters but could not be implemented due to the legality of the previous statewide gaming moratorium that expired on January 1, 2023. Measure H allows local cardrooms (Bay 101 and Casino M8trix) to increase the number of gaming tables (15 more per cardroom) if they pay the city more in annual taxes from gaming operations to fund general services, such as fire protection, 911 emergency response, public safety, street repair, and

addressing homelessness. The CGCC ruled that both of the city's card rooms had already reached the maximum number of tables per card room (49) and any added tables beyond that number would be inconsistent with the Act (previous moratorium).

Background:

Regulation and enforcement. Before 1998, California's gambling industry was essentially unregulated. In 1984, the Legislature enacted the Gaming Registration Act that required the Attorney General's office to provide uniform, minimum regulation of California card rooms. However, the scope of the Attorney General's authority was extremely limited and funding was inadequate. Recognizing the need for broader oversight of California's gambling industry, the Legislature enacted the Act in 1997. The Act created a comprehensive scheme for statewide regulation of legal gambling under a bifurcated system of administration involving the Bureau and the five-member CGCC that is appointed by the Governor.

The Act provides the CGCC with jurisdiction over the operation of gambling establishments in California. The Act requires every owner, lessee, or employee of a gambling establishment to obtain and maintain a valid state gambling license and assigns CGCC the responsibility of assuring that gambling licenses are not issued to, or held by, unqualified or disqualified persons, or by persons whose operations are conducted in a manner that is harmful to the public health, safety, or welfare. The Act directs CGCC to issue licenses only to those persons of good character, honesty and integrity; whose prior activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the public interest of this state.

The DOJ, through the Bureau, monitors the conduct of gaming operations to ensure compliance with state gambling laws and conducts extensive background investigations of applicants seeking a state gambling license. The Bureau also conducts background checks for all key employees and state gambling licensees and vendor applications. The Bureau also inspects premises where gambling is conducted, examines gambling equipment, audits papers, books, and records of the gambling establishment, investigates suspected violations of gambling laws, and is ultimately responsible for enforcing compliance with all state laws pertaining to gambling. The Bureau is also responsible for the approval of games that cardrooms are allowed to offer.

Game/gaming activity approval at cardrooms. All controlled games (such as pai gow, poker, etc.) and gaming activities (jackpots, bonuses, tournaments, etc.) must be approved by the Bureau and are subject to local ordinance requirements, regardless of whether the Bureau has approved the game and gaming activity rules for play.

The Act, Business & Professions Code section 19800 et seq., charges the Bureau with the responsibility to review and approve the rules of any game/gaming activity in a cardroom prior to them being offered for play. It is Bureau policy that all requests to review a game and/or gaming activity require an application, a \$1050 fee, which consists of a non-refundable \$500 application fee and \$550 background investigation deposit for the review and approval, and the fee collection schedule for each wagering limit. The Bureau will only begin the review/approval process upon receipt of a complete application and the application fees. Any amendments to a game or gaming activity must be approved prior to it being offered for play in the gambling establishment. Therefore, games that are currently being played in California's cardrooms have been through a specified approval process by the Bureau.

According to the Author

According to the author, "The cardrooms and the tribes are working collaboratively on this issue. Last year, the legislature ran out of time on reaching an agreement. When first proposed by the cardrooms 25 years ago, the moratorium sought to prevent an oversaturation of gaming to ensure the vitality of the cardroom industry. Those circumstances haven't changed today, and AB 341 provides a framework for measured growth in the coming years."

Arguments in Support

The California Cardroom Alliance (CCA) writes, "AB 341 maintains consumer safety protections and preserves local tax revenues relied on by many cities across the state. It specifically provides a small increase in tables for existing small cardrooms, prohibits massive gaming expansion through the licensing of new cardrooms and an unlimited number of new gaming tables, and ensures the continued economic vitality of local communities dependent on gaming revenues. Without AB 341, the state is vulnerable to the strong possibility of significant expansion of gaming as the long-standing moratorium on cardroom licensing ended as of January 1, 2023. This means that hundreds of dormant local ordinances will be brought back to life without the need for voter approval through a local election. State and local voters will have little ability to stop these licenses and as a result experience unbridled gaming expansion. Moreover, without a moratorium, voters in cities without gaming ordinances could vote to allow one or more cardrooms to be established."

The California Nations Indian Gaming Association (CNIGA) supports AB 341 to reinstate the cardroom moratorium that expired on January 1, 2023, and allow for prudent growth of the state's cardroom industry. "For over 20 years, California voters have consistently supported gaming on federally-recognized tribal lands. Tribal casinos have provided a pathway to self-reliance for tribes while creating thousands of jobs and generating billions in economic activity that benefits both state and local communities. AB 341 is an effort to protect that pathway to tribal self-reliance."

Arguments in Opposition

The Players Casino, a cardroom in the City of Ventura writes in opposition, "AB 341 is a collusive legislative effort that, first, has a retroactive effective date that strains Constitutional credulity, and second, is aimed at visiting serious harm on our card club. Artful and collusive wording of AB 341 prevents Players Casino from adding any tables at all throughout the twenty-year time span of the moratorium. Cardrooms, such as ours contribute to the revenue stream of our host city and any contemplated enactment of this completely valueless bill without permitting meaningful table growth is not only hostile to local cardroom businesses, but is also a deliberate effort to undermine local services and the city revenues that enable those services."

Oppose, unless amended. The Yocha Dehe Wintun Nation writes, "For nearly eleven years, our Tribe, as well as many others, have fought to stop the illegal play of banked games at California cardrooms. The Bureau has openly acknowledged that cardrooms play illegal games, but has failed to stop this conduct. AB 341 would actually foster the expansion of this illegal gaming by allowing cardrooms with fewer than twenty tables to add more. Almost all the cardrooms in our vicinity have fewer than twenty tables. Thus, the increase in the table count will allow the cardrooms to further harm our business with the play of illegal games. In addition, a significant number of our gaming facility's customers, come from the South Bay area, where San Jose is located. A greater expansion of illegal gaming in that urban market would particularly harm Yocha Dehe. Thus, our Tribe can support AB 341 only if it is amended to preclude the increase

in the number of cardroom tables and includes a comprehensive and retroactive moratorium on new cardroom facilities."

FISCAL COMMENTS

Unknown

VOTES**ASM GOVERNMENTAL ORGANIZATION: 21-1-0**

YES: Santiago, Lackey, Berman, Bryan, Cervantes, Megan Dahle, Davies, Garcia, Gipson, Jones-Sawyer, Low, Mathis, McCarty, McKinnor, Jim Patterson, Quirk-Silva, Ramos, Robert Rivas, Blanca Rubio, Ta, Villapudua

NO: Aguiar-Curry

UPDATED

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