
SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION**Senator Bill Dodd****Chair****2023 - 2024 Regular**

Bill No:	AB 341	Hearing Date:	4/25/2023
Author:	Ramos, et al.		
Version:	3/15/2023 Amended		
Urgency:	No	Fiscal:	Yes
Consultant:	Felipe Lopez		

SUBJECT: Gambling: local moratorium

DIGEST: This bill reinstates 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. Additionally, the bill authorizes a local jurisdiction to amend its local 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 and up to two additional tables every four years thereafter, not to exceed 10 additional tables, as specified.

ANALYSIS:

Existing law:

- 1) Provides, under the Gambling Control Act (Act), for the licensure and regulation of various legalized gambling activities and gambling establishments by the California Gambling Control Commission (Commission) and the investigation and enforcement of those activities and establishments the Department of Justice's Bureau of Gambling Control (Bureau).
- 2) Requires any amendment to any ordinance that would result in an expansion of gambling, as defined, in the city, county, or city and county, to be approved by the voters in that jurisdiction, unless that amendment results in an increase of less than 25% with respect to specified matters, including the number of gambling tables or the hours of operation of a gambling establishment in the city, county, or city and county.
- 3) Provides that any amendment to a local ordinance relating to gambling establishments, or the Act, shall be submitted to the Bureau for review and comment, before the ordinance is adopted by the city or county.

- 4) Directs the Commission to deny gambling licenses to applicants who are not in compliance with the local ordinances governing gambling.
- 5) Provides that no owner shall operate a gambling enterprise in violation of any local ordinance.

This bill:

- 1) Reinstates the 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.
- 2) 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 table by up to two additional tables the first year and up to two additional tables every four years thereafter, not to exceed 10 additional tables above those operated on January 1, 2023, as specified.
- 3) Provides 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 authorizes 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.
- 4) States that any amendment to a local ordinance or adoption of an ordinance on or after January 1, 2023, 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.
- 5) Provides that an application for a gambling license that was not licensed to operate on December 31, 2022, that is pending before the Commission as of January 1, 2024 shall not be approved by the Commission.
- 6) States that a gambling license 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.
- 7) 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 application that can be given effect without the invalid provisions or application.

Background

Purpose of the Bill. According to the author's office, "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."

Gambling Regulation/Enforcement in California. Cardrooms 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 number are large in scale, the rest are smaller operations, sometimes as few as one or two tables, scattered throughout the State.

The Act created a comprehensive scheme for statewide regulation of legal gambling under a bifurcated system of administration involving the Bureau within DOJ and the five-member Commission appointed by the Governor. The Commission is authorized to establish minimum regulatory standards for the gambling industry and to ensure that the state gambling licenses are not issued to, or held by, unsuitable or unqualified individuals.

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 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.

Recently Expired Moratorium. Prior to January 1, 2023, there were two statutory moratoriums that restricted the growth of gambling establishments in California. One moratorium prohibited the state from issuing licenses for new gambling establishments. The other limited gambling establishments from expanding the number of tables they operate.

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.

However, 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 gambling establishment. The last expansion of tables was enacted in AB 1039 (Hall, Chapter 745, Statutes of 2013) which authorized a local jurisdiction to amend its local ordinance to increase the number of tables by two. 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 Commission 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 having expanded their existing gambling ordinance in compliance with current law.

Approval of Games. 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, 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.

City of San Jose Provision. A provision in this bill provides "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 authorizes 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."

In November of 2020, the City of San Jose approved Measure H, which allows two local cardrooms, Bay 101 and Casino M8trix, to increase the number of tables they operate by 15 tables per cardroom. The measure also requires both cardrooms to pay more in taxes from gaming operations to fund general services, such as fire protection, 911 emergency response, public safety, street repair, and addressing homelessness. Last year, prior to the expiration of the moratorium, the Commission ruled that both of the city's cardroom had already reached the maximum number of tables, 49 per cardroom, and any added tables beyond that number would be inconsistent with the moratorium.

On March 23, 2023, following the expiration of the moratorium, the item was again taken up by the Commission. After much deliberation, including concerns by members of the Commission that language in the local ordinance was not consistent with requirements in the Act, the item was eventually put over to a future Commission hearing.

On April 20, 2023, the Commission denied the increase in tables for both Bay 101 and Casino M8trix on a 4-1 vote. Discussion regarding the reason for the denial once again focused on the discrepancy in the language of Measure H compared to the requirements in the Act. Following the denial, both cardrooms have the option of either appealing the decision to the Commission itself or seeking a remedy through the courts. The language in this bill would, if those tables are eventually approved, allow both Bay 101 and Casino M8trix to continue to operate those tables.

Prior/Related Legislation

SB 637 (Ochoa Bogh, 2022) would have extended the gambling moratorium related to the expansion of gaming and the issuance of new gambling licenses from January 1, 2023, to January 1, 2024. (Failed Passage in the Senate Governmental Organization Committee)

SB 576 (Archuleta, 2021) would have extended the gambling moratorium related to the expansion of gaming and the issuance of new gambling licenses from January 1, 2023, to January 1, 2028. Additionally, the bill would have authorized 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 by up to two tables each calendar year, up to a maximum of 10 additional tables, as specified. (Never Heard in the Assembly Committee on Governmental Organization)

AB 1168 (Gipson, Chapter 744, Statutes of 2018) extended the gambling moratorium related to the expansion of gaming and the issuance of new gambling licenses from January 1, 2020, to January 1, 2023.

SB 654 (Dodd, Chapter 244, Statutes of 2017) authorized a city, county, or city and county to amend its local ordinance to increase the operation of hours of a gambling establishment to up to 24 hours a day, seven days a week.

AB 1039 (Hall, Chapter 745, Statutes of 2013) 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.

SB 213 (Florez, 2009) would have extended the gambling moratorium on the issuance of new gambling establishments from January 1, 2015, to January 1, 2020. (Vetoed by Governor Schwarzenegger)

SB 8 (Lockyer, Chapter 867, Statutes of 1997) repealed the Gaming Regulation Act, and instead enacted the Act, which provided for DOJ to investigate and enforce controlled gambling in the state. It also established the CGCC to regulate gambling in this state to issue, suspend, or revoke gambling licenses and extended the gambling moratorium to January 1, 2001.

SB 100 (Maddy, Chapter 387, Statutes of 1995) established the original moratorium on card room expansion, prohibiting the creation of new card rooms until January 1, 1999.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

SUPPORT:

Cahuilla Band of Indians (Co-source)
The Commerce Casino & Hotel (Co-source)
The Gardens Casino (Co-source)
Kings Card Club (Co-source)
Morongo Band of Mission Indians (Co-source)
Rincon Band of Luiseno Indians (Co-source)
San Manuel Band of Mission Indians (Co-source)
Santa Ynez Band of Chumas Indians (Co-source)
Soboba Band of Luiseno Indians (Co-source)
Ace & Vine
Agua Caliente Band of Cahuilla Indians
Artichoke's Joe's, Inc.
Blackstone Gaming
Buena Vista Rancheria of Me-Wuk Indians
California Cardroom Alliance
California Cities for Self-Reliance Joint Powers Authority
California Coalition Against Gambling Expansion
California Grand Casino
California Hispanic Chamber of Commerce
California Nations Indian Gaming Association
Cal-prop Services
Capitol Casino
Casino Club
Casino M8trix
Club One Casino, Inc.
Communities for California Cardrooms
The Deuce and Lounge Casino
Elevation Entertainment Group
Elk Valley Rancheria, California
Garlic City Club and Restaurant
Habematolel Pomo of Upper Lake
Hollywood Park Casino
Knighted Ventures
LE Gaming
Napa Valley Casino
Oaks Card Club
Parkwest Casinos
Players Edge
Racxx Cardroom
Seven Mile Casino

Sheriff's Employee Benefits Association
Stones Gambling Hall
Tule River Tribe
Turlock Poker Room
United Auburn Indian Community
Wilton Rancheria
2 Kings Gaming Inc.

OPPOSITION:

California College and University Police Chiefs Association
California Narcotic Officers Association
Coalition of Public Safety Officer Support System
The Derby Room
Jamul Indian Village
Players Casino
Shingle Springs Band of Miwok Indians
Sycuan Band of Kumeyaay Nation
Valley Industry and Commerce Association
Yocha Dehe Wintun Nation

ARGUMENTS IN SUPPORT: According to sponsors of the bill, “after a 25-year moratorium on cardroom expansion expired, the five co-sponsoring tribes have come together to support AB 341, which would allow for prudent growth of the state’s cardroom industry, which is in line with voters’ attitudes towards the expansion of off-reservation gaming. AB 341 would allow small cardrooms who have experienced growth in their surrounding communities to increase the number of tables they operate. Specifically, the bill would allow licensed card rooms that operate 20 or fewer gambling tables to add up to 10 new tables over the length of a new 20-year moratorium. It would allow a cardroom operator the ability to add up to two gaming tables within the first year after the law takes effect, and up to two more tables every four years thereafter, ensuring continued growth without over expansion.

According to the California Cardroom Alliance, “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 in existing small, 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.”

ARGUMENTS IN OPPOSITION: According to the Shingle Springs Band of Miwok Indians, “the [Bureau] recognizes that the cardrooms play illegal games, but they have failed to take action to stop the practice. Approval of AB 341 in its current manner would continue and expand an environment of illegal gaming by the cardrooms. AB 341 proposes to allow all cardrooms with less than twenty tables to indiscriminately increase the number of tables in their facilities. It is important to note that almost every cardroom in our surrounding vicinity have fewer than twenty tables which would allow those cardrooms to do even greater harm to our casino due to their ability to increase the play of illegal games.”

According to the Sycuan Band of Kumeyaay Nation, “the language, as currently written, would allow for the expansion of cardrooms with 20 or fewer tables. This distinction is small but extremely significant. The working group that consisted of tribes and cardrooms developed this language to establish the ‘fewer than 20’ limit on cardrooms due to the specific demographics of the cardrooms throughout California, and thus the compromise for this bill hinged on that specific number. We ask that the language of the bill match the intent created it, and with the appropriate number of tables.”

According to Player’s Casino, “we must oppose the bill as the 20 table limit directly prejudices the two clubs that currently have 22 tables. The prejudice and inequity of this bill are not only to the Players Casino but to the City of Ventura which will be prohibited from collecting additional revenue from the tables that provide revenue to fund local services.”