

CONCURRENCE IN SENATE AMENDMENTS

AB 341 (Ramos, et al.)

As Amended April 27, 2023

Majority vote

SUMMARY

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, this 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 fewer than 20 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.

Senate Amendments

Modifies a clause in the bill as to the eligibility of a cardroom to increase the number of gaming tables from "20 or fewer" to "fewer than 20," as specified.

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) 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 Department of Justice's 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 CGCC.
- 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 fewer than 20 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 above those operated 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, as specified.

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 CGCC and the investigation and enforcement of those activities and establishments the 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 CGCC 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.

COMMENTS

Background.

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 CGCC 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.

Cardrooms in the City of San Jose. 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 repeal of former Section 19962, as amended by Chapter 1 of Section 744 of the Statutes of 2018, shall continue to be valid on and after January 1, 2024.*"

In November 2020, the City of San Jose approved Measure H (72.63% to 27.37%), which allows two local cardrooms, Bay 101 and Casino M8trix, to increase the number of tables they operate by 15 tables per cardroom. Measure H also required 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 CGCC 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. This bill would grant an exemption to the reinstated moratorium contained in this bill, to allow the two cardrooms in San Jose to increase the number of gaming tables at their gambling establishments, as defined and in accordance with the law.

Prior legislation. SB 637 (Ochoa Bogh) of 2022. Would have extended the gambling moratorium related to the expansion of card room gaming and the issuance of new gambling licenses from January 1, 2023, to January 1, 2024. (Failed passage in Senate Committee on Governmental Organization)

SB 576 (Archuleta) of 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, this bill 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 by up to two tables each calendar year, up to a maximum of 10 additional tables, as specified. (Never heard by the Assembly Committee on Governmental Organization)

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.

AB 163 (Mendoza) Chapter 647, Statutes of 2008. Authorized a city or county, without voter approval, to amend an ordinance to increase the number of gambling tables that may be operated in a gambling establishment by 3 tables if the ordinance in effect on July 1, 2007, provided for five to eight tables, and by four tables if the ordinance in effect on July 1, 2007, provided for nine to 12 tables. AB 635 (Bermudez) Chapter 694, Statutes of 2005. Permitted local governments to revise their ordinances limiting the number of tables in card rooms by 24.99 percent or two tables, whichever is greater, as compared with the level or number operated or authorized on January 1, 1996, without voter approval.

AB 864 (Firebaugh) Chapter 872, Statutes of 2004. Permitted cities and counties to adopt ordinances permitting the expansion of gambling that result in less than a 25 percent increase, without voter approval.

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.

According to the Author

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."

Arguments in Support

According to sponsors of this 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."

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 Seven Mile Casino, "the amendment to AB 341 from '20 or fewer' to 'fewer than 20', is not rationally related to any state interest and creates an arbitrary line within the industry. The amendment to exclude two cardrooms who have 20 tables from the ability for the modest growth proposed in the bill puts them at a severe disadvantage, upends the status quo in the industry, and adversely impacts the communities they serve."

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."

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

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

ASSEMBLY FLOOR: 68-1-11

YES: Addis, Alanis, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner Horvath, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Connolly, Megan Dahle, Davies, Dixon, Essayli, Mike Fong, Vince Fong, Friedman, Gabriel, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Villapudua, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon

NO: Aguiar-Curry

ABS, ABST OR NV: Alvarez, Cervantes, Chen, Flora, Gallagher, Maienschein, Mathis, Joe Patterson, Sanchez, Waldron, Wilson

SENATE FLOOR: 32-0-8

YES: Allen, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Ochoa Bogh, Padilla, Portantino, Roth, Rubio, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wilk

ABS, ABST OR NV: Alvarado-Gil, Cortese, Dahle, Grove, Nguyen, Niello, Seyarto, Wiener

UPDATED

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