

SENATE THIRD READING

SB 864 (Padilla)

As Amended September 3, 2025

2/3 vote. Urgency

SUMMARY

1) The bill would ratify a Tribal-State Gaming Compact between the State of California and the Cher-Ae Heights Indian Community of the Trinidad Rancheria, executed on July 11, 2025.

2) The bill would ratify amendments to separate Tribal-State Gaming Compacts between the State of California and the:

a) The Pinoleville Pomo Nation, California, executed on July 30, 2025.

b) The Sycuan Band of the Kumeyaay Nation, executed on July 30, 2025.

Major Provisions

1) Ratify the Tribal-State Compact between the State of California and the Cher-Ae Heights Indian Community of the Trinidad Rancheria, executed on July 11, 2025.

2) Ratify the First Amendment to the Tribal-State Compact between the State of California and the Pinoleville Pomo Nation, California, executed on July 30, 2025.

3) Ratify the First Amendment to the Tribal-State Compact between the State of California and the Sycuan Band of the Kumeyaay Nation, executed on July 30, 2025.

4) Provide that, in deference to tribal sovereignty, certain actions are not deemed projects for purposes of the California Environmental Quality Act (CEQA); and, stipulate, except as expressly provided, that none of the provisions shall be construed to exempt a city, county, or city and county, or the Department of Transportation, or any state agency or local jurisdiction, from CEQA requirements.

5) Declare that it is to take effect immediately as an urgency statute.

Existing Law:

1) Provides, under the Indian Gaming Regulatory Act (IGRA), for the negotiation and conclusion of compacts between federally recognized Indian tribes and the State for the purpose of conducting Class III gaming activities on Indian lands within a State as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.

2) Authorizes expressly a number of tribal-state gaming compacts between the State of California and specified Indian tribes.

3) Authorizes the conduct of Class III gaming activities to the extent such activities are permitted by state law, a gaming compact has been concluded by a federally recognized tribe and the State, and the compact has been approved by the Secretary of the Interior.

- 4) Limits the operation of Class III gaming activities to Indian lands acquired on or before October 17, 1988. Provides exceptions to conduct gaming activities on Indian lands acquired after October 17, 1988.
- 5) Defines Indian lands to mean all lands within the limits of any Indian reservation, and any lands title to which is either held in trust by the United States (U.S.) for the benefit of any Indian tribe, or individual, or held by any Indian tribe or individual subject to restriction by the U.S. against alienation and over which an Indian tribe exercises governmental power.
- 6) Requires the State to negotiate to conclude a compact in good faith with an Indian tribe having jurisdiction over the Indian lands upon which the Class III gaming activity is to be conducted. Provides the U.S. district courts with jurisdiction over any cause of action initiated by a tribal government alleging that the State failed to negotiate in good faith to conclude a compact. Prescribes the remedy, mediation supervised by the courts, if it is found that the State failed to negotiate in good faith to conclude a compact.
- 7) Authorizes the Governor, under the California Constitution, to negotiate and conclude compacts, subject to ratification by the Legislature.

COMMENTS

Note: On September 2, 2025, the Assembly Committee on Governmental Organization held an informational hearing on the content of the separate Tribal-State Class III Gaming Compacts between the State of California and the above-mentioned tribes.

Background on Cher-Ae Heights Indian Community of the Trinidad Rancheria Compact:

The Tribal-State Gaming Compact between the State of California (State) and the Cher-Ae Heights Indian Community of the Trinidad Rancheria (Tribe), a federally recognized Indian tribe was executed on July 11, 2025 on a sovereign government-to-government basis pursuant to the IGRA. The Tribe is located in Humboldt County, California. The Tribe is governed by a democratically elected five-person community council.

In 1999, the Tribe and the State entered into the tribal-state compact (1999 Compact), which enabled the Tribe, through revenues generated by its gaming operation, to improve the governance, environment, education, health, safety, and general welfare of its citizens, to promote a strong tribal government and self-sufficiency, and to provide essential government services to its citizens.

Today, the Tribe operates the Heights Casino in Trinidad, California. The casino opened its doors in 1988 as a 20,000 square-foot tilt-up or as it was described by tribal members "a tin building" bingo hall. In 2002, the casino expanded to a 50,000 square foot gaming facility with a new look, an expanded bingo hall, 300 slot machines, table games, the Firewater Lounge and the Sunset Restaurant overlooking Trinidad Head. The Heights Casino has continued to evolve by continually bringing in the newest and most exciting cutting-edge slot machines and games.

This new Compact authorizes the Tribe to operate a maximum of 1,200 slot machines at no more than three gaming facilities located on eligible Indian lands held in trust for the Tribe, and located within the boundaries of the Tribe's reservation.

The Tribe has agreed to pay the State its pro rata share of costs the State incurs for the performance of its duties under the Compact. The Compact does not require the Tribe to pay into the Revenue Sharing Trust Fund (RSTF) or the Tribal Nation Grant Fund (TNGF).

If the Tribe operates 350 slot machines the Compact requires the Tribe to pay 0.5% of Net Win to an Impact Mitigation Fund and distribute those funds to neighboring jurisdictions or charitable fire or emergency service entities to mitigate impacts resulting from the operation of the gaming facility, or other purposes as the Tribe and the recipient entity may agree.

Certain terms of the Compact related to licensing, regulatory, patron protection, and public health provisions are substantially the same as recent compacts. Specifically, the Compact includes a Tribal Labor Relations Ordinance (TLRO), which provides that gaming may commence only after the Tribe has adopted a TLRO that allows for a secret ballot election and union neutrality.

The Compact provides that in the event the exclusive right of Indian tribes to operate Class III gaming in California pursuant to the California Constitution is abrogated by the enactment, amendment, or repeal of a state statute or constitutional provision or the conclusive and dispositive judicial construction of a statute or the State Constitution by a California appellate court after the effective date of this Compact, that gaming devices may lawfully be operated by non-Indian entities, the Tribe shall have the right to terminate this Compact, as specified.

The Compact includes a Force Majeure clause which, in the event of a force majeure event beyond the Tribe's control that cause the Tribe's gaming facility to be inoperable or operate at significantly less capacity, the Tribe and the State agree to meet and confer for the purposes of discussing the event and appropriate actions.

The Compact's preamble notes that the Tribe and the State have concluded that this compact protects the interests of the Tribe and its members, the surrounding community, and the California public, and will promote and secure long-term stability, mutual respect, and mutual benefit.

Once effective (legislative ratification and federal approval required), this Compact will be in full force and effect for 25 years following the effective date.

Background on the Sycuan Band of the Kumeyaay Nation Compact:

The Sycuan Band of the Kumeyaay Nation (Tribe) is a federally recognized tribe of Mission Indians from Southern California, located in an unincorporated area of San Diego County just east of El Cajon, California. The Tribe currently operates the Sycuan Casino Resort, located approximately 30 minutes from downtown San Diego. Originally opened in 1983 as a modest one-room Bingo Palace, the resort has since evolved into one of the region's premier gaming and hospitality destinations. According to the Tribe's official website, the casino floor features over 2,300 diverse slot machines and 50 classic table games, including poker, blackjack, craps, and roulette. In 2019, a \$260 million expansion project was completed, introducing a 12-story luxury hotel with more than 300 guest rooms and 57 suites.

The Tribe's business enterprises have evolved from traditional Kumeyaay practices to a diversified portfolio including not only gaming but hospitality and real state. Other than the

Casino Resort, the Tribe also owns a golf course, the Marina Gateway Company, and is a joint owner of the San Diego FC soccer team.

The Amendment to the Tribal-State Gaming Compact (Amended Compact) between the State of California (State) and the Tribe was executed on July 30, 2025. The Amended Compact amends an existing 2015 Compact, to avoid potential litigation after the Ninth Circuit's decision in *Chicken Ranch Rancheria of Me-Wuk Indians v. California* (See below). The Amended Compact also includes a 20-year extension in exchange for the Tribe agreeing not to challenge the revenue terms during the life of the Compact. The Tribe's current 2015 Compact is set to expire in 2040.

In 2015, the Tribe entered into a new tribal-state compact, ratified by AB 795 (Atkins, Chapter 520, Statutes of 2015), which authorized the operation of up to 2,500 slot machines at no more than two gaming facilities located on Indian lands held in trust for the Tribe. Under the terms of the Compact, the Tribe agreed to pay the State its pro rata share of costs incurred in performing its duties under the agreement, as well as 4.75% of its "gross gaming revenue". These funds are designated for distribution to non-gaming tribes or those not substantially benefiting from gaming. Additionally, the Compact establishes a framework for sharing gaming revenue with the County of San Diego and other local jurisdictions.

The Amended Compact's preamble notes that "the United States Court of Appeals for the Ninth Circuit's decision in *Chicken Ranch Rancheria of Me-Wuk Indians v. California*, 42 F.4th 1024 (9th Cir 2022) clarified what provisions may be included in tribal-state Class III gaming compacts entered into pursuant to the IGRA."

According to the Amended Compact's preamble, "a dispute arose between the Tribe and the State relating to the validity and interpretation of the 2015 Compact that were implicated by the decision in *Chicken Ranch*. The Tribe and the State engaged in dispute resolution pursuant to Section 13.0 of the Tribe's 2015 Compact. In order to resolve any and all current and potential disputes concerning improper interpretation of the 2015 Compact arising from the Ninth Circuit's decision in *Chicken Ranch*, the Tribe and the State have agreed to amend the 2015 Compact."

Consistent with the *Chicken Ranch Decision*, the Amended Compact deletes provisions in the 2015 Compact that required the Tribe to prepare a tribal environmental impact report analyzing the potentially significant off-reservation environmental impacts of the construction of a gaming facility.

Consistent with the *Chicken Ranch Decision* and in alignment with recent compacts, the Amended Compact removes provisions from the Tribe's 2015 Compact that required the Tribe, with respect to the earnings of any person employed at the gaming facility, to comply with all earnings withholding orders for support of a child, spouse, or former spouse.

The Amended Compact changes the definition of "gaming facility" to mean the buildings or structures in which Class III Gaming, as authorized by this Compact is conducted. This change is consistent with recent tribal-state compacts and aligns with the *Chicken Ranch Decision*.

The Amended Compact prohibits both the Tribe and the State from directly or indirectly initiating, or participating in any action or lawsuit challenging the enforceability of the definitions in the Compact, except as expressly mutually agreed to by both parties. Additionally, both parties shall not encourage, assist, or cause any person, organization, or entity to do so. The Amended Compact also prohibits the Tribe from directly or indirectly initiating or participating

in any action or lawsuit arising from or relating to the validity or enforceability of the Compact's provisions relating to the SDF, the RSTF, or the TNGF, regardless of any subsequent court or administrative interpretation of the validity of those provisions under IGRA for the duration of the term of this Compact.

The Amended Compact deletes current tort law provisions in their 2015 Compact and instead requires the Tribe to establish written procedures for the disposition of tort claims arising from personal injury or property damage alleged to have been suffered by any person who is a patron of the gaming facility. The Tribe is required to provide coverage in an amount no less than \$10 million per occurrence.

Consistent with more recent compacts, the Amended Compact provides that if the State authorizes any person to conduct a new form of Class III gaming not expressly authorized in this Amended Compact, the State shall enter into good-faith negotiations for the purpose of adding the newly authorized Class III gaming activity and making other appropriate related amendments.

The Tribe's current 2015 Compact is set to expire in 2040, the Amended Compact provides a 20-year extension, meaning that this Amended Compact will now expire on December 31, 2060.

Background on the Pinoleville Pomo Nation, California Compact:

The Amendment to the Tribal-State Gaming Compact (Amended Compact) between the State of California (State) and the Pinoleville Pomo Nation, California (Tribe) was executed on July 30, 2025. It modifies a previously ratified 2011 Compact to better align with more recent Class III tribal-state gaming compacts that were ratified by Legislature (Gov. Code Section 12012.25) and approved by the Secretary of the Interior. Additionally, the Amended Compact helps to mitigate the risk of potential litigation following the Ninth Circuit's decision in the Chicken Ranch case (see below).

The Tribe is a federally recognized Indian tribe situated in Mendocino County, California. Its reservation, known as the Pinoleville Rancheria, encompasses approximately 100 acres along the northern edge of the county. The Tribe has an enrolled membership of about 300 individuals, with most residing in or near the city of Ukiah. Tribal governance is administered by a seven-member elected Tribal Council.

In 2011, the Tribe entered into a new Class III tribal-state compact, ratified by AB 1418 (Hall), Chapter 412, Statutes of 2011. This agreement authorizes the Tribe to operate up to 900 gaming devices (slot machines), as well as any banking or percentage card games, and other devices or games permitted under California law. These operations are limited to a single gaming facility located on Indian lands held in trust for the Tribe. Under the 2011 Compact, the Tribe is required to contribute up to 15 percent of the casino's net win from gaming devices to support local government services and to fund gambling mitigation and regulatory efforts. The compact also included provisions to safeguard the health and safety of employees and patrons, along with environmental protection measures that must be implemented during both the construction and operation of the gaming facility. The compact remains in effect through December 31, 2031.

It is important to note that the Tribe has never constructed or operated a gaming facility pursuant to the terms of the approved 2011 Class III gaming compact with the State.

According to the Amended Compact's preamble, the State and the Tribe agree that this Amended Compact provides the Tribe with substantial economic benefit by reducing the total amount of payments that the Tribe would otherwise owe under the 2011 Compact and by enhancing the Tribe's ability to access tribal-government financing.

The Amended Compact changes the definition of "gaming facility" or "facility" to mean the buildings or structures in which Class III gaming, as authorized by this Compact, is conducted. This change is consistent with recent tribal-state compacts and aligns with the Chicken Ranch Decision.

The Amended Compact deletes the current payment formula in the 2011 Compact and instead requires the Tribe pay to the State, on a pro rata basis, the costs the State incurs for the performance of all its duties under this Compact, as established by the monies appropriated in the annual Budget Act for the performance of their duties under the Class III gaming compacts. This change aligns the Tribe's compact with recent tribal-state compacts.

The Amended Compact deletes the current payment formula that the Tribe is required to pay into the RSTF under their 2011 compact. The Amended Compact does not require the Tribe to pay into either the RSTF or the TNGF. This change is consistent with recent tribal-state compacts which generally do not require tribes who operate less than 1,200 slot machines to pay into either the RSTF or the TNGF.

If the Tribe operates 350 slot machines, the Amended Compact requires the Tribe to pay 0.5% of Net Win to an Impact Mitigation Fund and distribute those funds to for purposes of providing assistance to fire protection districts and non-tribal law enforcement, emergency services, and service agencies with demonstrated impacts from the gaming facility.

Similar to recent compacts, the Amended Compact requires the Tribe to establish written procedures for the disposition of tort claims arising from personal injury or property damage alleged to have been suffered by any person who is a patron of the gaming facility. The Tribe is required to provide coverage in an amount no less than \$2 million per occurrence with an annual aggregate limit not less than \$5 million.

Similar to recent compacts and consistent with the Chicken Ranch Decision, the Amended Compact deletes current provisions in the Tribe's 2011 Compact that require the Tribe, with respect to the earnings of any person employed at the gaming facility, to comply with all earnings withholding orders for support of a child, spouse, or former spouse.

Consistent with the Chicken Ranch Decision, the Amended Compact deletes provisions in the 2011 Compact that required the Tribe to prepare a tribal environmental impact report analyzing the potentially significant off-reservation environmental impacts of the construction of a gaming facility.

Upon all the necessary approvals, the Amended Compact will be valid until December 31, 2031.

Additional Background Information:

Compact Ratification. The State Constitution, as amended by Proposition 1A of March 2000, permits Indian tribes to conduct and operate slot machines, lottery games, and banked and percentage card games on Indian land. These gambling activities shall only occur if:

- 1) The Governor and an Indian tribe reach agreement on a compact;
- 2) The Legislature approves the compact, and
- 3) The federal government approves the compact. Pursuant to IGRA, the Secretary may only disapprove a proposed Compact where the Compact violates IGRA, any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or the trust obligation of the United States to Indians. 25 U.S.C. Section 2710(d)(8)(B).

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 of California. Following completion of negotiations, the Governor shall submit a copy of any executed Tribal-State compact to both houses of the Legislature for ratification and shall submit a copy of the executed compact to the Secretary of State. The compact provides that it shall not be presented to the Legislature for a ratification vote until the Tribe has provided the written proof and will provide written proof to the Governor the tribal governing body has ratified it.

Indian Gaming Regulatory Act. In 1988, Congress enacted the IGRA to provide a statutory basis for the operation and regulation of gaming on Indian lands. IGRA provides that an Indian tribe may conduct gaming activity on Indian lands if the activity "is not specifically prohibited by federal law and is conducted within a State which does not prohibit such gaming activity." IGRA further provided for general regulatory oversight at the federal level and created the National Indian Gaming Commission.

IGRA distinguishes between three classes of gaming (Class I, Class II, and Class III) and provides for different forms of regulation for each class. Class I gaming includes "social games" for minor prizes or "traditional forms of Indian gaming." Class II gaming is defined to include bingo and card games that are explicitly authorized by the laws of the state, or that are not explicitly prohibited by the laws of the state and are played at any location in the State, so long as the card games are played in conformity with those laws and regulations. All other games are Class III, except for certain social or traditional forms of gaming. Class III games include, but are not limited to the following: baccarat, blackjack, slot machines, and electronic or electromechanical facsimiles of any game of chance. Class III gaming may only be conducted under terms of a compact negotiated between an Indian tribe and a State.

IGRA was enacted against a legal background in which Indian tribes and individuals generally are exempt from state taxation within their own territory. IGRA provides that with the exception of assessments permitted under the statute, to defray the State's costs of regulating gaming activity, IGRA shall not be interpreted as conferring upon a State authority to impose any tax, fee, charge, or other assessment upon an Indian tribe to engage in Class III activity. Nor may a State refuse to enter into negotiations based on the lack of authority to impose such a tax, fee, charge, or other assessment.

When a tribe requests negotiations for a Class III compact, IGRA requires the State to negotiate with the Indian tribe in good faith. IGRA provides a comprehensive process to prevent an impasse in compact negotiations, which is triggered when a tribe files suit alleging that the State has refused to negotiate or has failed to negotiate in good faith.

Chicken Ranch Rancheria Decision. In 2021, the Chicken Ranch Rancheria of Me-Wuk Indians, along with four other tribes—the Blue Lake Rancheria, Chemehuevi Indian Tribe, Hopland Band of Pomo Indians, and Robinson Rancheria—filed suit against the State of California and

Governor Gavin Newsom. The tribes alleged that the state violated IGRA by failing to negotiate new Class III gaming compacts in good faith.

According to the complaint, California insisted on compact terms covering family law, environmental regulation, and tort liability—subjects that the tribes argued were outside IGRA's limited scope, which allows negotiation only on matters directly related to the operation of gaming activities. In July 2022, the Ninth Circuit Court of Appeals upheld the district court's finding that California's demands exceeded IGRA's bounds and therefore constituted bad-faith negotiation. The court ordered the parties to move forward under IGRA's remedial process. Under that process, if the parties are ultimately not able to agree on a compact, a mediator reviews each side's "last best offer" and selects the proposal that best aligns with federal law, and the U.S. Department of the Interior (through the Assistant Secretary for Indian Affairs) issues Secretarial Procedures regulating the tribe's gaming operation without state involvement.

This outcome was viewed by Indian tribes as a significant affirmation of tribal sovereignty and a rejection of state overreach in tribal gaming regulation. The Governor's office believes the terms of this Compact are consistent with this court decision.

Rincon Decision. In 2004, the Rincon Band of Mission Indians sued the State of California in federal court after negotiations for a new gambling agreement with then-Governor Schwarzenegger fell apart. The Tribe believed the Governor was violating federal law by insisting that tribes pay money into the state's General Fund in exchange for more slot machines.

In July 2011, the U.S. Supreme Court declined to review a Ninth Circuit Court's decision that ruled the state could not require the Rincon Band tribe to pay a percentage of slot machine revenue into California's General Fund for more gaming devices. The Ninth Circuit had affirmed a lower court decision that the new financial concessions were nothing more than a state tax on tribal casino revenues, which is prohibited by IGRA. The court concluded that a "non-negotiable, mandatory payment of 10% of net win into the State treasury for unrestricted use yields public revenue and is [therefore] a tax and that the court was therefore required to consider the State's demand as evidence of bad faith under IGRA's statutes."

The Rincon decision has changed the dynamics of tribal-state compact negotiations in California.

According to the Author

None on file

Arguments in Support

None on file

Arguments in Opposition

None on file

FISCAL COMMENTS

Unknown

VOTES

SENATE FLOOR: Votes not relevant

YES:

ABS, ABST OR NV:

ASM GOVERNMENTAL ORGANIZATION: Votes not relevant

YES:

ASM APPROPRIATIONS: Votes not relevant

YES:

ABS, ABST OR NV:

UPDATED

VERSION: September 3, 2025

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FN: 0001636