

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6599

BILL NUMBER: HB 1133

DATE PREPARED: Dec 6, 1998

BILL AMENDED:

SUBJECT: Casino gaming in West Baden and French Lick.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill prohibits land based casinos in Indiana except for a casino subject to a tribal-state compact. It requires the state to enter a tribal-state compact to permit casino gambling on Indian lands in French Lick and West Baden.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill establishes the Indian Casino Negotiation Committee to negotiate a tribal-state compact with an Indian tribe. The Committee is to consist of five members of the General Assembly. Each member of the Committee is entitled to receive the same per diem, mileage, and travel allowances paid to members of the General Assembly serving on interim study committees established by the Legislative Council. Legislators are currently entitled to a per diem of \$117, as well as mileage reimbursement at the rate of \$0.28 per mile. These expenses would be covered under the Legislative Council's budget.

Explanation of State Revenues: This bill requires the state to negotiate a tribal-state compact, authorized by the General Assembly, to permit land-based casino gambling on Indian lands in French Lick and West Baden Springs. It prohibits land-based casinos in Indiana except for a casino located on Indian lands in French Lick and West Baden Springs. It also requires the Indian Casino Negotiation Committee to negotiate a compact with an Indian tribe. The compact must include terms for casino revenue sharing. The state is allowed to provide for an assessment to cover regulatory costs.

The Indian Gaming Regulatory Act (IGRA) allows Indian tribes to conduct any type of class III gaming (which includes parimutuel wagering, slot machines, and video poker) in a state that allows such gaming as long as it conforms to the compact negotiated by the state and the Indian tribe. It is not known whether this language will prevent an Indian tribe from operating a casino in a location other than French Lick and West Baden Springs.

The IGRA provides that an Indian tribe may sue a state for failing to negotiate or failing to negotiate in good faith. However, the United States Supreme Court ruled in the case of *Seminole Tribe of Florida v. Florida* that the United States Congress does not have the power to subject states to lawsuits by Indian tribes for failing to negotiate a compact. Therefore, the provision of the IGRA that allows tribes to sue states is unenforceable.

The Eleventh Circuit Court of Appeals, in its decision in *Seminole Tribe of Florida v. Florida*, asserted that Indian tribes may negotiate with the U.S. Secretary of the Interior for a resolution if negotiations with a state fails. The U.S. Supreme Court did not comment on this assertion. The IGRA does not contain language that authorizes the Secretary of the Interior to negotiate a compact without participation by a state. Therefore, it is not known if a tribe will be able to negotiate a compact with the Secretary of the Interior if the State of Indiana refuses.

In addition, Indian tribes in California, Florida, and Texas operate casinos even though a tribal-state compact has not been negotiated. The states have been unable to shut down the casinos because the land is under federal government jurisdiction.

Explanation of Local Expenditures: This bill requires the election boards of French Lick and West Baden Springs to place a public question on the 2000 primary election ballot regarding the operation of a casino in those towns. This can be done within the towns' existing budgets.

Explanation of Local Revenues:

State Agencies Affected: General Assembly; Secretary of State.

Local Agencies Affected: French Lick and West Baden Springs.

Information Sources: 25 U.S.C. 2701 et seq. (Indian Gaming Regulatory Act); *Seminole Tribe of Florida v. Florida* et al, 116 S. Ct. 1114 (1996); Ellen Perlman, "A Game of Defiance," *Governing*, November 1998, pages 50-54.