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2008 VOTE: INDIAN GAMING  
High stakes for both sides in casino bids

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SACRAMENTO – In what may be a referendum on the future of Indian gambling in California, Propositions 94 to 97 ask whether four of the state's wealthiest tribes should be allowed to expand their gaming operations, perhaps dramatically, over the next 23 years.

Underscoring the stakes involved, the heavyweight matchup already has burned through nearly \$120 million, with more spending on the campaign to come before the Feb. 5 election.

Rich tribes have squared off against rich tribes, with an itch to settle an old score complicating what otherwise looks to be a struggle over market share.

A promise of billions of dollars for the state has dominated the campaign. But the annual revenue stream likely will never represent more than a tiny fraction of California's more than \$100 billion budget.

The four gambling agreements also have been lumped together, though they have significant differences. Two – for the Pechanga band of Temecula and Morongo of Banning – authorize up to 7,500 slot machines each. The other two – for Sycuan of El Cajon and Agua Caliente of Palm Springs – allow 5,000.

Sycuan's compact permits an off-reservation casino in the rural Dehesa Valley. Agua Caliente, the only California tribe with two casinos, would get an option to build a third.

If all that is not confusing enough, the ballot measures are referendums on state legislation that ratified the compacts. A “yes” vote would affirm the ratification measures. A “no” vote would nullify them and leave the compacts in limbo.

Maybe.

The federal government, in a blunder that officials are still trying to sort out, was forced to automatically approve the compacts without review after they reportedly got lost at the Interior Department for nearly three months.

As a result, if the vote goes against the multibillion-dollar deals, the tribes are widely expected to continue the fight in court.

The outcome “is going to have a broad impact, both positive and negative, depending on your viewpoint,” said Thad Kousser, a political scientist at the University of California San Diego.

“It will bring a lot of money into the state budget if these deals are upheld – not enough to fix the deficit, but a lot nonetheless. It will also increase gaming. For opponents of gaming, that's a serious statewide impact.”

The compacts could bring the next big wave of expansion in an industry that has matured rapidly from spartan bingo halls to luxury casino resorts that posted nearly \$8 billion in revenues last year.

Ironically, the four tribes with compacts hanging in the balance walked away from similar agreements for unlimited slots just a few years ago when they objected to labor and other provisions as infringements on tribal sovereignty. But those same deals were quickly approved without controversy for a group of tribes that included Pala, Pauma and Viejas of San Diego County.

In the intervening years, the Schwarzenegger administration stopped offering unlimited slot machines. But even with caps of 7,500 and 5,000 slots, the pending compacts draw comparisons to the largest casinos in the world.

“When voters approved Indian gaming, they were promised a moderate expansion of gambling,” said Scott Macdonald, a spokesman for the opposition. “This is something entirely different.”

The compacts enable the four tribes to add up to 17,000 slot machines, an almost 29 percent increase to the roughly 59,000 already in operation in the state. But it's uncertain how quickly each will expand.

Pechanga and Morongo have the floor space and demand to add up to 5,000 slots fairly quickly. Agua Caliente expects to expand more slowly, and Sycuan's market potential is even more limited.

The pace of expansion also will determine how much the state collects. As a start, the tribes agreed to pay California a higher rate on the 2,000 slot machines each operates under the original 1999 compacts.

The tribes would make fixed payments that equal roughly 10 percent of the net win – what's left after paying all jackpots – from those machines. The larger cut will generate nearly \$56 million more a year for the state. Over the life of the compacts, that amounts to almost \$1.3 billion.

On additional slots up to 5,000, each tribe agreed to pay 15 percent of the net win. On slots over 5,000, Pechanga and Morongo agreed to pay 25 percent.

Over the life of the agreements, the state could receive more than \$10 billion, said Alan Meister, an economist hired by the tribes. That's welcome news for a state facing a \$14.5 billion budget gap.

But Tim Gage, a former state finance director who crunched the numbers for the opposition, warned that “all that money will come from somewhere else in the economy.” Gage said the compacts actually could result in a net loss in sales and other taxes.

The nonpartisan Legislative Analyst's Office forecast a net increase of less than \$200 million for the state initially, growing to perhaps \$500 million.

Whatever the amount, it won't be insignificant, said Roger Salazar, a spokesman for the tribes.

“When you're talking about hundreds of millions of dollars a year . . . you're talking about being able to save things, like parks from being closed or prisoners from being released,” Salazar said.

Gov. Arnold Schwarzenegger, who negotiated the deals, said they will deliver the “fair share” he promised to extract from tribes when he first ran for governor in the 2003 recall of Gov. Gray Davis.

“It took awhile to get them there because they tried to beat us in 2004,” Schwarzenegger recently told *The San Diego Union-Tribune*. “They had their own initiative on the ballot . . . and we beat them with 80 percent of the votes.

“So now there is nowhere else to go. They said, 'Oh my God, we've got to negotiate with this guy.'”

But it reportedly was Schwarzenegger who approached the tribes in the spring of 2006. Politically weakened by the defeat of his “Year of Reform” initiatives the year before, the Republican governor was reaching out to many of his adversaries as he prepared for a potentially difficult re-election bid.

That scenario and concessions he granted the four tribes prompted critics to dismiss the compacts as “sweetheart election-year deals.”

On top of more money for the state, the compacts contain stronger environmental, employee and patron protections. For the first time, the tribes will be required to negotiate agreements with local governments to compensate for the off-reservation effects of their casinos.

“I'm not sure that some of the tribes realize how much it is going to cost them when you calculate the revenue share and the new agreements with local governments,” said Michael Lombardi, a consultant and gaming commissioner for the Augustine band of Coachella, which is neutral on the measures.

Opponents who put up nearly \$6 million to qualify the referendum measures include the casino workers union UNITE HERE!, the owner of two horse tracks, and two other big gaming tribes, Pala and United Auburn of suburban Sacramento.

Pala and United Auburn were allies against the same tribes 10 years ago in a ballot fight over a compact negotiated by Pala and former Gov. Pete Wilson. Bitter feelings linger from that campaign, but Pala and United Auburn also have more basic reasons for putting more than \$22 million into the fight.

Pechanga's casino has a dominant, freeway-close location not far from Pala. United Auburn is bracing for competition from a casino planned at Shingle Springs. If voters embrace the pending compacts, the Shingle Springs tribe is expected to seek similar terms.

Opponents contend the compacts will encourage expansion while giving casino workers little hope of organizing. Smaller casinos also could get clobbered by the potential expansion, they warn.

Earlier compacts that Schwarzenegger negotiated contained fee structures designed to discourage expansion and union-backed organizing rules.

Organized labor was unhappy with the labor provisions in the pending compacts and blocked them for nearly a year. When they finally were ratified by the Legislature, UNITE HERE! was a driving force behind the referendums and contributed \$3 million to the campaign.

The four tribes say they negotiated a labor compromise in their original compacts that gives casino workers the right to organize.