

# Measure J329

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## **INSTRUCTIONS:**

Please carefully read the following description of a ballot measure that was written by a disinterested expert. Feel free to take notes or outline passages as you read.

This should take approximately 10 minutes.

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## **BALLOT MEASURE J329**

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### **BACKGROUND**

#### **Gambling in California**

The State Constitution and various other state laws limit the types of legal gambling that can occur in California. The State Constitution specifically:

- Authorizes the California State Lottery, but prohibits any other lottery.
- Allows horse racing and wagering on the result of races.
- Allows bingo for charitable purposes (regulated by cities and counties).
- Prohibits Nevada- and New Jersey-type casinos (although this phrase is not defined).

Other state laws allow gambling in card rooms. Card games (such as poker) can be played only if the card room does not have a stake in the outcome of the game. State law specifically prohibits many games (such as twenty-one), and it also prohibits the operation of any slot machine or other gambling device.

#### **Gambling on Indian Land**

The federal Indian Gaming Regulatory Act of 1988 (IGRA) governs gambling operations on Indian land. The IGRA puts gambling activities into three classes and places restrictions on Indian tribes who want to conduct these activities. In general, Indian tribes may offer:

- Class I gambling without restriction. Class I gambling includes social games and traditional/ceremonial games.
- Class II gambling that is allowed throughout the state in which the Indian land is located. Class II gambling includes bingo and many card games. Class II gambling, however, specifically excludes all card games in which the operator has a stake in the amount wagered or the outcome of the game.
- Class III gambling activities only if the tribe and the state sign an agreement (referred to as a tribal-state compact) that allows the specific gambling activities. Class III gambling consists of all activities that are not in Class I or II. Thus, Class III gambling includes lotteries, slot machines or other gambling devices, and horse race wagering.

If the state allows any type of Class III gambling and an Indian tribe asks to negotiate a compact for operation of those gambling activities on tribal land, then the state is required to negotiate in good faith for a compact.

***Gambling on Indian Land in California.*** Currently, there are 41 Indian gambling operations in California which offer a variety of gambling activities. These include bingo, card games (including a type of blackjack), and electronic (video) gambling devices. To date, California has entered into compacts with five Indian tribes allowing parimutuel wagering on horse racing. (Parimutuel betting is where all wagers go into a common prize pool, less a specific "take-out" for management.) In addition, the Governor has negotiated a compact with the Pala Band of Mission Indians for other forms of Class III gambling (other tribes have also agreed to this compact). To date, however, legislation concurring with this agreement has not been passed.

Actions are currently pending in federal court regarding the continued operation of many gambling activities on Indian land. Consequently, the future status of some activities is uncertain.

## **PROPOSAL**

This measure requires the state to enter into a specific compact allowing certain Class III gambling activities on Indian lands for those tribes that agree to sign the agreement. The measure also requires the Governor to negotiate a separate tribal-state compact with any tribe that wants a different compact.

### **Tribal-State Compact**

The following are the basic provisions of the tribal-state compact established by the measure:

***Class III Activities Allowed.*** The following Class III gambling activities could be conducted in Indian gambling establishments in California:

- Parimutuel horse race wagering (consistent with an existing tribal-state compact).
- Electronic gambling devices (a type of slot machine) that allow the individual to play any game of chance. The device, however, could not dispense coins or currency and could not be activated with a handle. In addition, the device must pay prizes solely in accordance with a "player's pool prize system"--defined to be a prize system where all wagers collected from players are eventually returned to the winners with no opportunity for the establishment to win.
- Any card game that was played in any California tribal gambling operation on or before January 1, 1998. Prizes would have to be paid solely in accordance with a player's pool prize system.
- Any lottery game.

It is unclear if the games authorized by this compact would result in "Nevada- or New Jersey-type casinos" and therefore violate the State Constitution. Since there is no current definition of this phrase, the question would almost certainly have to be decided by a court.

Additionally, the measure would set 18 as the minimum age to gamble in an Indian establishment. Currently, the minimum age to gamble in California is 18 for the state lottery and 21 for all other legal forms of gambling.

**Trust Funds.** Tribes would be required to establish three trust funds to be funded from a portion of gambling proceeds. The amounts contributed to the trust funds would vary by fund and would be based on a percent (ranging from 0.5 percent to 3 percent) of the "net win" (defined as the total wager less any prize payouts) from electronic gambling devices. The obligation to make trust fund contributions remains in effect only if the tribes continue to have the exclusive right to operate electronic gambling devices as specified in the compact.

The trust funds would be distributed annually (1) to tribes that had not recently had gambling operations; (2) throughout the state, by county, for emergency medical needs and for compulsive gambling programs (based on each county's population of persons over 55 years of age); and (3) to cities and counties which have Indian gambling operations and to tribes within affected counties.

**Tribal Regulation.** Under the compact, each tribe must have a tribal gambling agency responsible for regulating its gambling facilities and operations.

**State Regulation.** The Attorney General and the Gambling Control Commission would be responsible for state regulation of the tribal gambling operations. State regulation, however, would be limited to: (1) conducting background checks of nontribal employees of a gambling operation, (2) reviewing specified information submitted by the tribal gambling agency, and (3) advising the tribal agency that the state objects to certain actions taken by the agency.

## Other Provisions of the Measure

**Other Compacts.** The measure requires the Governor to negotiate with an Indian tribe for a compact that differs from the one defined in the measure if so requested by a tribe. The measure states that an alternative compact does not require legislative approval unless it expands the scope of Class III gambling, grants certain responsibilities to state agencies, or authorizes the spending of state funds.

**Tribal Reimbursement of State Regulation Costs.** The measure provides for tribal reimbursement of all reasonable costs associated with state regulation of any compact.



**STOP!**

Please go to the online survey, enter the 4-character code for this ballot measure (printed at the top and bottom of this page) and answer the survey questions.