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FISCAL IMPACT REPORT

ORIGINAL DATE 03/11/13

SPONSOR Munoz LAST UPDATED _____ HB _____

SHORT TITLE Amend Gaming Compacts SB 642

ANALYST Hartzler-Toon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
	***	***	Recurring	Tribal Revenue Sharing

(Parenthesis () Indicate Revenue Decreases)

Relates to 2001 Compacts, 2007 Compacts, and submitted 2014 Navajo Nation Compact

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Governor's Office (GO)

New Mexico Gaming Control Board (NMGCB)

SUMMARY

Synopsis of Bill

Senate Bill 642 amends the Compact Negotiation Act, Section 11-13A-4 NMSA 1978, relating to the governor's authority to approve certain compacts and amendments to existing tribal-state gaming compacts without the Legislature's approval.

Current law authorizes the governor to sign, without additional legislative approval, proposed

compacts or amendments where the proposed compact or amendment is identical to one previously approved by the Legislature *except for* the name of the compacting nation, tribe, or pueblo, and the name of the persons authorized by the nation, tribe, pueblo, and state to execute the agreement.

Senate Bill 642 places a deadline on when the Governor may exercise this authority for proposed gaming compacts or amendments that are identical (except for name of the nation, tribe, or pueblo and executing agent for the tribal entity and state) to existing compacts for nations, tribes, and pueblos. To avoid separate legislative approval, SB 642 provides that a nation, tribe, or pueblo must request the governor approve a compact or amendment within 240 days (approximately 8 months) following the existing compact's or amendment's legislative date of approval.

By implication, the bill would require legislative approval for any request made after 240 days the Legislature approved a compact or amendment. The governor would be unable to approve a request made after 240 days, even if the proposed compact or amendment was identical to the compact or amendment approved.

Further, SB 642 does not affect a governor's authority to negotiate a tribal-state compact that differs materially from compacts or amendments that have been previously approved nor does the bill affect the Legislature's authority to consider a tribal-state compact that differs materially from prior-approved compacts or amendments.

The bill does not contain an appropriation, but impacts from the bill may be experienced in the revenues collected by the state where a nation, tribe, or pueblo enters a new gaming compact or amended compact which includes different terms than current compact provisions.

FISCAL IMPLICATIONS

This bill may result in increased operational costs for the Governor's Office should nations, tribes, or pueblos seek to enter new compacts or amend existing compacts within 240 days of the Legislature approving a new compact. For example, should the Legislature approve the proposed Navajo Nation-state compact amendment (March 8, 2013), four other signatories to the 2001 tribal-state compacts (Jicarilla Apache Nation, the Mescalero Apache Tribe, and the Pueblos of Acoma and Pojoaque) and others may seek similar amendments to their individual 2001 compacts within 240 days of the Legislature approving the Navajo amendment. Such a demand would likely result in increased operational costs to the Governor's Office during FY14, and the Governor's Office did not offer estimated costs should this occur.

Further, the bill may result in varying short-term and long-term revenue levels, without sufficient analysis of revenues, should the Legislature approve a new compact and other nations, tribes, or pueblos and the state seeks to amend existing compacts under SB 642's amended Section 4 authority. For example, the March 2013 proposed Navajo Nation compact amendment includes different terms and conditions than either the 2001 compacts or 2007 compact amendments. Should the Legislature approve the Navajo's proposal and a nation, tribe, or pueblo submits a timely request to amend existing compacts by adopting an identical compact to the Navajo Nation's compact amendment, the governor would have the authority to execute compact amendments without further legislative approval or have a timely legislative analysis of the impacts on revenues.

SIGNIFICANT ISSUES

The Governor’s Office notes that this bill addresses a concern that nations, tribes, or pueblos file timely requests to amend existing tribal-state gaming compacts. The New Mexico Gaming Control Board provided a brief chronological history citing that some New Mexico nations, tribes, and pueblos entered the 2001 compacts years after the initial compacts were approved. Under Laws 2007, Chapters 311 and 314, prevented nations, tribes, and pueblos from waiting years to enter 2007 compact amendments to the 2001 compacts, instead requiring that requests be filed within 240 days of the 2007 compact amendments.

The New Mexico Gaming Control Board reports that “allowing a tribe to sign a compact years after it is first negotiated may have severe financial implications to the state if the circumstances under which the original compact was negotiated have substantially changed.” Instituting a timeline – 240 days after a compact or amended compact is approved – reduces the risk that tribes may wait more than a year to amend an existing compact without additional legislative approval.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to the respondents, current law will allow nations, tribes, and pueblos to enter into prior-approved compacts or compact amendments at any time, once a compact or compact amendment has been approved by the Legislature.

The bill does not affect the governor’s authority to negotiate compacts or the Legislature to consider and require compact or compact amendments with different terms than prior-approved compacts.

THT/blm