

# GAMING LEGAL NEWS



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## INTERNET GAMING LEGISLATIVE UPDATE

**CALIFORNIA** – The California Assembly is back in session for the next several weeks, but Senate President Pro Tem Darrell Steinberg has just announced that there will be no action on any of the various Internet bills prior to adjournment on September 9. This development follows a vigorous legislative effort during 2011, featuring competing Senate bills (SB 45, the Wright bill, and SB 40, the Correa bill). Television advertising supporting SB 40 appeared on Sacramento stations last week. However, major Indian tribes are reportedly not happy with the latest iteration of SB 40. Despite Senator Steinberg's announcement, an informational hearing is set for today (August 24) before the Assembly Governmental Oversight Committee; notably, this is the first time that the issue is being heard on the Assembly side of the Capitol. However, the absence of a more coordinated effort and consensus among the California tribes almost certainly doomed the movement this year of either legislative proposal.

**FLORIDA** – Legislative committee hearings will begin in October. The intrastate Internet gaming issue in Florida is similar to the situation in California, *i.e.*, there needs to be a consensus among the stakeholders (primarily consisting of the Seminole Tribe, the major card rooms, and the pari-mutuel industry) in order for legislation to get through the legislature and onto the Governor's desk.

**NEW JERSEY** – New Jersey State Senator Raymond J. Lesniak (who has been the major proponent of Internet gaming legislation in the state) recently sent a letter to U.S. Senators Harry Reid and John Kyl responding to the Senators' letter to Attorney General Eric Holder. The Reid/Kyl letter requested that the Attorney General oppose efforts to pass intrastate Internet gaming legislation. Senator Lesniak asserts that New Jersey should be permitted to exercise its rights as provided under federal and state law. It is anticipated that a new bill addressing the concerns of Governor Chris Christie will be submitted to the legislature in the coming months.

**OVERVIEW** – The economic challenges faced by each state, as well as the fact that the battle for control of the Presidency, the Congress (House and Senate), and many state legislatures is gearing up for an epic battle in 2012, creates a particularly challenging atmosphere for Internet gaming legislation at both the state and the federal level. The

odds continue to favor state intrastate legislation being signed into law well ahead of any new federal Internet gaming legislation. Nonetheless, the situation is so volatile that it is important for worldwide gaming interests to pay close attention to both state and federal legislative activity since the situation could change dramatically depending upon the economic and political landscape in the coming months.

## MEANWHILE, THE CALIFORNIA CONFUSION CONTINUES....

by Dennis J. Whittlesey

As discussed in the foregoing Internet Gaming Legislative Update article, the Internet gaming proposals in California are dead for the year.

In his August 22 letter announcing that the issue would be shelved until 2012, Senate President Pro Tem Darrell Steinberg (D-Sacramento) stated, "significant, unresolved issues remain, including tribal exclusivity and waiver of sovereign immunity, the types of games that would be authorized, who would be eligible to apply for gaming site licenses and potential federal constitutional questions." And this closed the latest chapter in California's search for new gaming revenues through intrastate Internet gaming.

California politicians recognize that they need to act quickly in light of the potential for federal legislation that would trump a purely intrastate licensing program. To this end, Steinberg has said that he expects to see new legislation in January for discussion at a hearing before the Senate Governmental Organization Committee, although no such document seems to exist at this time. However, various gaming advocates have warned that California must move quickly in order to protect the estimated \$7.5 billion in gaming revenues currently generated by the state's card rooms and tribal casinos.

The basic problem in California is the deep division within the tribal gaming community represented by two groups with conflicting objectives. And they have been spending lots of their casino money on lobbyists in Sacramento.

In one corner is a group supporting the Correa bill noted in the above article. Sponsored by Senator Lou Correa (D-Santa Ana), it would legalize online poker but not other kinds of Internet gaming. It is supported by the Morongo and San Manuel Bands of Indians in Southern California and four card rooms. The tribes have spent more than a reported \$640,000 for lobbying over the past 20 months. The Correa bill is also endorsed by the California Online Poker Association, saying that it would bring both money and jobs to a state that is in serious financial distress with a growing number of unemployed citizens. One spokesman has estimated an "immediate" realization of some \$250 million in revenues from this bill, with billions more in the future.

In the other corner is the California Tribal Business Alliance ("CTBA"), together with other groups. They oppose the Correa bill as unfair

to their interests. Curiously, this group also opposes the Wright bill (also as noted in the article above). Sponsored by Senator Rod Wright (D-Inglewood), it would legalize all kinds of Internet gaming. One of the arguments advanced by the CTBA is that any new gaming in the state would violate the Tribal-State Gaming Compacts, resulting in termination of annual payments to the state of an estimated \$300 million to \$400 million.

Adding to the confusion is the August 21 editorial published by the influential *Sacramento Bee* calling the proposed online gaming legislation "a losing bet for California." The newspaper flatly predicts that the result would not be the generation of new revenue, but rather nothing more than merely shifting existing gaming revenue "from one place to another, while adding to [the] problem of addictive gambling."

The only certainty is that nobody knows whether California can figure it out by the time the Assembly reconvenes in January. The two existing bills contain real differences in the gaming to be legalized. The state's tribal community is deeply divided, and the "have not" tribes feel they are being victimized by the Correa bill which would require an application fee of \$55 million from any group applying for licensure of a poker site, a sum that the "haves" clearly could pay.

Nobody is predicting a quick resolution to the divisions. In the meantime, California will have to find new revenues from a source other than Internet gaming of any kind.