

**2003 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-SB41)**

Received: **02/20/2003**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Miller (608) 266-5342**

By/Representing:

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Gambling - Indian gaming**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Miller@legis.state.wi.us**

Carbon copy (CC:) to:

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Gaming compacts

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**Instructions:**

See Attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley 02/20/2003	csicilia 02/20/2003		_____			
/1			jfrantze 02/20/2003	_____	sbasford 02/20/2003	sbasford 02/20/2003	

FE Sent For:

<END>

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FE Sent For:

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ASA

to

SB 41

Miller

03-2095

50016/1

ASA  
2003 BILL  
TO

2003 SB 41  
D-1110

1 AN ACT *to renumber and amend* 14.035; and *to create* 14.035 (2) and 14.037  
2 of the statutes; **relating to:** legislative approval of Indian gaming compacts  
3 and proposed Indian gaming establishments located on certain trust lands.

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***Analysis by the Legislative Reference Bureau***

Under current state law, the governor, on behalf of the state, is authorized to negotiate and enter into Indian gaming compacts to regulate the operation of Indian gaming facilities on Indian lands taken into trust by the federal government prior to October 17, 1988. These compacts are regulated by the federal Indian Gaming Regulatory Act (IGRA). IGRA also requires that before an Indian gaming establishment may be located on Indian lands taken into trust after October 17, 1988, the governor must concur with the decision of the U.S. secretary of the interior that the proposed Indian gaming establishment would not be detrimental to the surrounding community.

This bill provides that, before the governor may enter into any Indian gaming compact that has been negotiated, the governor must submit the proposed compact to the legislature for approval. The governor may not enter into any compact until the legislature approves the proposed compact by joint resolution. If the legislature does not approve the compact, the compact must be returned to the governor for renegotiation. The bill also requires that, before the governor may concur with a decision of the U.S. secretary of the interior that an Indian gaming establishment proposed to be located on Indian lands taken into trust after October 17, 1988, would be in the best interest of the Indian tribe and its members and would not be

**BILL**

detrimental to the surrounding community, the legislature must approve the proposed gaming establishment by joint resolution.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 14.035 of the statutes is renumbered 14.035 (1) and amended to  
2 read:

3           14.035 (1) ~~The~~ Subject to sub. (2), the governor may, on behalf of this state,  
4 enter into any compact that has been negotiated under 25 USC 2710 (d).

5           **SECTION 2.** 14.035 (2) of the statutes is created to read:

6           14.035 (2) Before entering into any compact negotiated under sub. (1), the  
7 governor shall submit the proposed compact to the legislature for approval. The  
8 governor may not enter into any compact until the legislature approves the proposed  
9 compact by joint resolution. If the legislature does not approve without change the  
10 proposed compact, the compact shall be returned to the governor for renegotiation.

11           **SECTION 3.** 14.037 of the statutes is created to read:

12           **14.037 Indian gaming on lands taken into trust after October 17, 1988.**

13 The governor may not concur with a determination of the U.S. secretary of the  
14 interior, as described in 25 USC 2719 (b) (1) (A), that a gaming establishment  
15 proposed to be located on lands acquired by the U.S. secretary of the interior in trust  
16 for the benefit of an Indian tribe after October 17, 1988, would be in the best interest  
17 of the Indian tribe and its members and would not be detrimental to the surrounding  
18 community unless the legislature approves the proposed gaming establishment by  
19 joint resolution.

20           **SECTION 4. Initial applicability.**

**BILL**

1 (1) This act first applies to Indian gaming compacts negotiated by the governor  
2 and decisions made by the governor as described under 25 USC 2719 (b) (1) (A)  
3 beginning on the effective date of this subsection.

4 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2095/1dn  
RAC:jlc:cph

February 19, 2003

cjs

~~This is a redraft of 2001 LRB 2126/3.~~ Please note that it is not entirely certain that the legislature can condition the actions of the governor under 25 USC 2719 (b) (1) (A). That federal law provision authorizes gaming activities on lands held in trust for Indian tribes by the Secretary of the Interior (Secretary) if the Secretary determines that a gaming establishment on the lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, "but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination." It is unclear what role, if any, the legislature can play in such a concurrence.

Rick A. Champagne  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0016/1dn  
RAC:cjs:jf

February 20, 2003

Please note that it is not entirely certain that the legislature can condition the actions of the governor under 25 USC 2719 (b) (1) (A). That federal law provision authorizes gaming activities on lands held in trust for Indian tribes by the Secretary of the Interior (Secretary) if the Secretary determines that a gaming establishment on the lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, "but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination." It is unclear what role, if any, the legislature can play in such a concurrence.

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