



2003 ASSEMBLY BILL 905

February 25, 2004 - Introduced by Representatives M. LEHMAN, STONE, HAHN, HINES, BIES, J. LEHMAN, J. WOOD and TOWNSEND. Referred to Committee on State Affairs.

1 **AN ACT** *to amend* 15.01 (2); and *to create* 14.037, 15.107 (18) and 569.07 of the
2 statutes; **relating to:** gaming establishments on certain lands taken into trust
3 for the benefit of Indian tribes and creating an advisory siting commission.

Analysis by the Legislative Reference Bureau

The federal Indian Gaming Regulatory Act, which regulates gaming activities on Indian lands, requires that, before an Indian gaming establishment may be located on Indian lands taken into trust after October 17, 1988 (off-reservation lands), the governor must concur with the decision of the U.S. secretary of the interior that the proposed Indian gaming establishment would be in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community.

This bill provides that the governor must consider recommendations from the Advisory Siting Commission (commission) before he or she concurs with a decision of the U.S. secretary of the interior that an Indian gaming establishment proposed to be located on off-reservation lands would be in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community.

Under this bill, the commission is responsible for reviewing proposals for additional Indian gaming establishments and recommending to the governor whether additional Indian gaming establishments should be established on off-reservation lands, and, if so, where they should be located. The bill requires the commission to consider various factors in deciding which proposals to recommend. The commission must give preference to proposals: that are filed by small

ASSEMBLY BILL 905

disadvantaged tribes; that provide the greatest net economic benefit to Wisconsin; and that have the support of the affected community as evidenced by the results of a local referendum. The commission may not recommend a site unless all voting members of the commission approve the proposal and unless the site has an agreement with a local service provider to provide fire, police, and emergency services.

The bill creates the commission, which consists of four members of the legislature and three members of the public (each appointed by the governor); the bill requires that the chair of the committee must be one of the members of the public. While the commission reviews and develops recommendations on specific proposals, the commission must also include one nonvoting member selected by any Indian tribe that submitted the proposal.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 14.037 of the statutes is created to read:

2 **14.037 Indian gaming on lands taken into trust after October 17, 1988.**

3 **(1)** In this section:

4 (a) “Affected community” means the county and municipality within whose
5 borders the proposed off-reservation Indian gaming facility described in sub. (2)
6 would lie.

7 (b) “Indian gaming facility” has the meaning given in s. 569.01 (1j).

8 (c) “Indian tribe” has the meaning given in s. 569.01 (3).

9 (d) “Municipality” means a city, village, or town.

10 (e) “Off-reservation” means any land that is acquired by the U.S. secretary of
11 the interior in trust for the benefit of an Indian tribe after October 17, 1988.

12 **(2)** The governor may not concur with a determination of the U.S. secretary of
13 the interior, as described in 25 USC 2719 (b) (1) (A), that an Indian gaming facility
14 proposed to be located on off-reservation land would be in the best interest of the

ASSEMBLY BILL 905

1 Indian tribe and its members and would not be detrimental to the affected
2 community unless the governor considers the recommendations from the advisory
3 siting commission created under s. 15.107 (18).

4 **SECTION 2.** 15.01 (2) of the statutes is amended to read:

5 15.01 (2) "Commission" means a 3-member governing body in charge of a
6 department or independent agency or of a division or other subunit within a
7 department, except for the Wisconsin waterways commission which shall consist of
8 5 members, the parole commission which shall consist of 8 members, and the Fox
9 River management commission which shall consist of 7 members. A Wisconsin group
10 created for participation in a continuing interstate body, or the interstate body itself,
11 shall be known as a "commission", but is not a commission for purposes of s. 15.06.
12 The parole commission created under s. 15.145 (1) shall be known as a "commission",
13 but is not a commission for purposes of s. 15.06. The sentencing commission created
14 under s. 15.105 (27) shall be known as a "commission" but is not a commission for
15 purposes of s. 15.06 (1) to (4m), (7), and (9). The advisory siting commission created
16 under s. 15.107 (18) shall be known as a "commission" but is not a commission for
17 purposes of s. 15.06.

18 **SECTION 3.** 15.107 (18) of the statutes is created to read:

19 15.107 (18) ADVISORY SITING COMMISSION. (a) There is created an advisory siting
20 commission in the department of administration. The commission shall consist of
21 the following members:

22 1. One majority party member and one minority party member from each house
23 of the legislature, appointed as are the members of standing committees in their
24 respective houses.

ASSEMBLY BILL 905**SECTION 3**

1 2. Three members who are not employed by any unit of federal, state, or local
2 government, appointed by the governor, one of whom will chair the committee.

3 3. One nonvoting member selected by the Indian tribe, as defined in s. 569.01
4 (3), that submitted the proposal.

5 (b) Members appointed under par. (a) 2. shall serve 4-year terms and are
6 eligible for reappointment.

7 (c) Members of the advisory siting commission shall be reimbursed for their
8 actual and necessary expenses incurred in the performance of their duties. An officer
9 or employee of the state shall be reimbursed by the agency that pays the member's
10 salary. Members shall receive no compensation for their services.

11 (d) The advisory siting commission shall meet on the call of the chairperson.
12 The chairperson shall call for at least one meeting to discuss each proposal that is
13 submitted, and the chairperson may call for other meetings.

14 **SECTION 4.** 569.07 of the statutes is created to read:

15 **569.07 Advisory siting commission.** (1) In this section:

16 (a) "Affected community" means the county and municipality within whose
17 borders the proposed off-reservation Indian gaming facility described in s. 14.037 (2)
18 would lie.

19 (b) "Municipality" means a city, village, or town.

20 (c) "Off-reservation" means any land that is acquired by the U.S. secretary of
21 the interior in trust for the benefit of an Indian tribe after October 17, 1988.

22 (2) An Indian tribe that has submitted a proposal to the U.S. secretary of the
23 interior for his or her determination may submit the proposal to the advisory siting
24 commission. The bureau of Indian affairs for a tribe also may submit a proposal to

ASSEMBLY BILL 905

1 the advisory siting commission when the bureau submits the proposal to the
2 governor for his or her approval.

3 (3) After reviewing a proposal submitted under sub. (2), the advisory siting
4 commission, subject to the criteria in subs. (4), (5), and (6), shall recommend to the
5 governor which proposed Indian gaming facilities described in s. 14.037 (2) should
6 be established.

7 (4) The advisory siting commission shall give preference to all of the following:

8 (a) Proposals that are filed by or include a small disadvantaged Indian tribe.

9 (b) Proposals that yield the greatest net economic benefit to the state as
10 measured by Indian gaming receipts.

11 (c) 1. Except as provided in subd. 2., proposals that have the support of a
12 majority of the affected community, as shown by a referendum that occurred after
13 January 1, 1998.

14 2. If the referendum occurs after January 1, 1998, and before the effective date
15 of this subdivision [revisor inserts date], proposals in which the governing bodies
16 of the affected community concur in the referendum results.

17 (5) The advisory siting commission may not recommend an Indian gaming
18 facility unless all voting members of the commission designated under s. 15.107 (18)

19 (a) 1. and 2. approve the proposal.

20 (6) The advisory siting commission may not recommend an Indian gaming
21 facility site if the site does not have an agreement, or a process to reach an agreement,
22 in place with the affected community to provide fire, police, and emergency services.

23 **SECTION 5. Nonstatutory provisions.**

24 (1) Notwithstanding section 15.107 (18) (b) of the statutes, as created by this
25 act, the initial members of the advisory siting commission appointed under section

ASSEMBLY BILL 905

1 15.107 (18) (a) 2. of the statutes, as created by this act, shall be appointed for the
2 following terms:

3 (a) One member for a term expiring on July 1, 2005.

4 (b) One member for a term expiring on July 1, 2007.

5 (c) One member for a term expiring on July 1, 2009.

6 **SECTION 6. Initial applicability.**

7 (1) This act first applies to decisions made by the governor as described under
8 25 USC 2719 (b) (1) (A) on the effective date of this subsection.

9 (END)