

THE SIGNIFICANCE OF LOCAL GOVERNMENT AGREEMENTS IN THE AMENDED COMPACTS

For the most part, the Davis compacts did not address the needs of local governments because there was no requirement for a tribal-local government agreement on the mitigation of off-reservation casino impacts. Local governments do not have the authority to override federal law that makes gaming legal on tribal land, and tribal sovereignty shields tribes from most state and local laws and taxes, including land use planning, development fees, and environmental laws. As a result, local communities with tribal casinos operating under the Davis compacts have no legal means to cover the costs created by the development of casinos. This concerns state and local officials who want casinos to pay fees and abide by environmental regulations applicable to all private development in the community.

Under the Davis compacts, tribes are required to pay into two funds: one to aid tribes with no casino or with a small casino operation and the other, the Special Distribution Fund (SDF), to fund state regulatory costs, state programs for gambling addiction, and grants to state and local agencies to mitigate off-reservation impacts. Local government grants from the SDF have been distributed under a formula that allows 75 percent of the grant funds to be controlled by tribes with just 22 percent of the operating tribal casinos in California. Grant funds are divided into amounts allocated to each eligible tribal casino, and the statute requires the tribe's "affirmative sponsorship" of any local government grant proposal before it may be funded. Counties believe that the total amount in the fund is not enough to adequately mitigate casino impacts statewide. Furthermore, under the \$25 million grant program, Riverside County with nine casinos, for instance, expects to receive \$10.6 million from the SDF (nearly half the fund), leaving only \$14.4 million for the remaining 33 counties with casinos.

Under the 12 Schwarzenegger compacts, by contrast, each tribe is obligated to reach an agreement with its local government, which has resulted in several comprehensive agreements that are enforceable in state superior court. There are also several comprehensive agreements in place with cities and counties for casinos that have not yet been constructed and for which the tribes do not yet have compacts, but are seeking federal authority to use land that is not currently qualified for tribal gaming.

As an example of a local agreement that satisfies the terms of the Schwarzenegger compacts, Placer County and the United Auburn Indian Community entered into an MOU for the development of the Thunder Valley Casino. The tribe agreed to follow all local land use ordinances, create an environmental review document, pay for enhanced law enforcement and fire protection, improve local roads, compensate the county for lost taxes and establish a Tribal-County Advisory Council to resolve local issues. As part of the agreement, all provisions are enforceable through the Sacramento County Superior Court. In addition to constructing a new fire station on the casino premises, the MOU guarantees a \$1 million annual reimbursement from the tribe to the county for police, fire and emergency services.

The Rumsey Band of Wintun Indians, in its agreement with Yolo County for the expansion of the Cache Creek Casino, agreed to comply with local environmental requirements, to pay annual road maintenance fees to the county and the city of Woodland and to pay its fair share of the proposed traffic impact mitigation efforts. The tribe also agreed to reimburse the county for a park-and-ride lot and shuttle service that support the casino and included cost of living adjustments to the annual payment made to the county. The tribe and county agreed to resolve disputes through arbitration or in Yolo County Superior Court. In total the tribe agreed to pay the county \$100 million over the life of the agreement to mitigate the impacts of the casino development. This MOU superseded an agreement between the tribe and county that dated back to 1995.

Without these agreements, the counties would have been forced to mitigate the impacts of casino development with their own funding or with the limited funding available from the state.