

MAINE STATE LEGISLATURE

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Date: 3/28/18 Minority

L.D. 1201
(Filing No. H-697)

VETERANS AND LEGAL AFFAIRS

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
128TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 838, L.D. 1201, Bill, "An Act To Authorize Tribal Gaming"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 8 MRSA §1001, sub-§25-A is enacted to read:

25-A. Joint tribal entity. "Joint tribal entity" means a legal entity formed for the purpose of operating slot machines and table games at a casino, the entire ownership of which is held equally, either jointly or in common, by the Passamaquoddy Tribe, the Penobscot Nation, the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians.

Sec. 2. 8 MRSA §1011, sub-§2-C is enacted to read:

2-C. Licenses for the operation of slot machines and table games by a joint tribal entity. Notwithstanding subsection 2-B, the board may accept an application for a casino operator license from a joint tribal entity authorizing the joint tribal entity to operate slot machines and table games at one casino owned by the joint tribal entity.

Sec. 3. 8 MRSA §1011, sub-§4-A is enacted to read:

4-A. Joint tribal entity license; change in ownership. Notwithstanding section 1001, subsection 25-A, a casino operator license issued to a joint tribal entity does not become invalid or ineligible for renewal if the composition of the joint tribal entity changes, as long as:

A. The change in composition happens no sooner than 6 months after initial licensure;

B. The joint tribal entity consists of no fewer than 2 federally recognized Indian tribes after the composition change; and

C. The remaining tribes comprise the entire ownership and that ownership is held equally, either jointly or in common.

COMMITTEE AMENDMENT

1 **Sec. 4. 8 MRSA §1018, sub-§1-A**, as enacted by PL 2011, c. 699, §2, is amended
2 to read:

3 **1-A. Fees for slot machine and casino operator licenses on or after September 1,**
4 **2012.** Notwithstanding subsection 1, paragraphs C and C-1, beginning September 1,
5 2012, an applicant for a slot machine operator license or a casino operator license must
6 pay a \$250,000 nonrefundable privilege fee to be submitted with the application for the
7 license and a minimum license fee, or cash bid if the license is part of a competitive
8 bidding process established by law, of \$5,000,000. This subsection does not apply to a
9 casino licensed for operation in the State as of September 1, 2012 or a casino licensed to a
10 joint tribal entity under section 1011, subsection 2-C.

11 **Sec. 5. 8 MRSA §1019, sub-§6**, as amended by PL 2011, c. 417, §5, is further
12 amended to read:

13 **6. Proximity of licensed casinos and slot machine facilities.** A Except for a casino
14 operator license issued to a joint tribal entity under section 1011, section 2-C, a casino
15 operator license or slot machine operator license may not be issued under this chapter to
16 operate any casino or slot machine facility located within 100 miles of a licensed casino
17 or slot machine facility. A casino operator license issued to a joint tribal entity may not
18 be issued for a casino located within 50 miles of an existing licensed casino or slot
19 machine facility. This subsection does not prohibit a commercial track that was licensed
20 to operate slot machines on January 1, 2011 from obtaining a casino operator license for
21 the same facility where slot machines were operated as of January 1, 2011.

22 **Sec. 6. 8 MRSA §1019, sub-§7**, as amended by PL 2011, c. 417, §6, is further
23 amended to read:

24 **7. Statewide and county referendum; municipal vote.** After January 1, 2011, ~~any~~
25 a proposed casino or slot machine facility, other than a casino to be operated by a joint
26 tribal entity, may not be issued a license unless it has been approved by a statewide
27 referendum vote and a vote of the municipal officers or municipality in which the casino
28 or slot machine facility is to be located, except that a commercial track licensed to operate
29 slot machines on January 1, 2011 is only required, as a condition to obtain a casino
30 license, to receive approval to operate a casino by means of a referendum of the voters of
31 the county in which the commercial track is located.

32 A. A license may not be issued to a joint tribal entity that has applied for a casino
33 operator license under section 1011, subsection 2-C unless one of the following
34 conditions is met:

35 (1) The land on which the casino will be located is land that on January 1, 2018
36 was owned by the Passamaquoddy Tribe, the Penobscot Nation, the Aroostook
37 Band of Micmacs or the Houlton Band of Maliseet Indians or is land held in trust
38 by the United States or by any other person or entity for the Passamaquoddy
39 Tribe, the Penobscot Nation, the Aroostook Band of Micmacs or the Houlton
40 Band of Maliseet Indians;

41 (2) The land on which the casino will be located is located in the unorganized
42 territory; or

1 (3) The land on which the casino will be located is within a municipality and that
2 municipality approves of the operation of the casino in that municipality. A
3 municipality may provide its approval either by vote of its legislative body or in a
4 referendum of the voters of the municipality.

5 **Sec. 7. 8 MRSA §1020, sub-§3, ¶A**, as amended by PL 2011, c. 585, §8, is
6 further amended to read:

7 A. Except for slot machines used for training and educational purposes at
8 postsecondary institutions as provided by section 1011, subsection 1-B, the total
9 number of slot machines registered in the State may not exceed ~~3,000~~ 4,500; and

10 **Sec. 8. 8 MRSA §1036, sub-§2-A**, as amended by PL 2017, c. 284, Pt. C, §1, is
11 further amended to read:

12 **2-A. Distribution from casino of slot machine income.** A casino operator licensed
13 under section 1011, subsection 2-A shall collect and distribute 46% of the net slot
14 machine income from slot machines operated by the casino operator to the board for
15 distribution by the board as follows:

16 A. Twenty-five percent of the net slot machine income must be forwarded directly
17 by the board to the Treasurer of State, who shall credit the money to the Department
18 of Education, to be used for essential programs and services for kindergarten to grade
19 12 under Title 20-A, chapter 606-B;

20 B. Four percent of the net slot machine income must be forwarded by the board to
21 the University of Maine System Scholarship Fund created in Title 20-A, section
22 10909 and to the Board of Trustees of the Maine Maritime Academy to be applied by
23 the board of trustees to fund its scholarship program. The slot machine income under
24 this paragraph must be distributed as follows:

25 (1) The University of Maine System share is the total amount of the distribution
26 multiplied by the ratio of enrolled students in the system to the total number of
27 enrolled students both in the system and at the Maine Maritime Academy; and

28 (2) The Maine Maritime Academy share is the total amount of the distribution
29 multiplied by the ratio of enrolled students at the academy to the total number of
30 enrolled students both in the system and at the academy;

31 C. Three percent of the net slot machine income must be forwarded by the board to
32 the Board of Trustees of the Maine Community College System to be applied by the
33 board of trustees to fund its scholarships program under Title 20-A, section 12716,
34 subsection 1;

35 D. Four percent of the net slot machine income must be forwarded by the board to
36 the Treasurer of State, who shall distribute the funds to the tribal governments of the
37 Penobscot Nation and the Passamaquoddy Tribe;

38 E. Three percent of the net slot machine income must be deposited to the General
39 Fund for administrative expenses of the board, including gambling addiction
40 counseling services, in accordance with rules adopted by the board;

- 1 F. Two percent of the net slot machine income must be forwarded directly to the
2 municipality in which the casino is located;
- 3 G. One percent of the net slot machine income must be forwarded by the board to the
4 Treasurer of State, who shall credit the money to the Agricultural Fair Support Fund
5 established in Title 7, section 91;
- 6 H. One percent of the net slot machine income must be forwarded by the board to the
7 Treasurer of State, who shall credit the money to the fund established in section 298
8 to supplement harness racing purses;
- 9 I. One percent of the net slot machine income must be credited by the board to the
10 Sire Stakes Fund created in section 281;
- 11 J. One percent of the net slot machine income must be forwarded directly to the
12 county in which the casino is located to pay for mitigation of costs resulting from
13 gaming operations;
- 14 L. Beginning July 1, 2013, 1/2 of 1% of the net slot machine income must be
15 forwarded by the board to the Treasurer of State, who shall credit the money to the
16 Maine Milk Pool, Other Special Revenue Funds account within the Department of
17 Agriculture, Conservation and Forestry to help fund dairy farm stabilization pursuant
18 to Title 7, sections 3153-B and 3153-D; and
- 19 M. Beginning July 1, 2013, 1/2 of 1% of the net slot machine income must be
20 forwarded by the board to the Treasurer of State, who shall credit the money to the
21 Dairy Improvement Fund established under Title 10, section 1023-P.

22 If a recipient of net slot machine income in paragraph D, H or I owns or receives funds
23 from a slot machine facility or casino, other than the casino in Oxford County or the slot
24 machine facility in Bangor, then the recipient may not receive funds under this
25 subsection, and those funds must be ~~retained by the Oxford County casino operator~~
26 deposited to the General Fund.

27 **Sec. 9. 8 MRSA §1036, sub-§§2-D and 2-E are enacted to read:**

28 **2-D. Distribution of slot machine income from a casino operated by a joint**
29 **tribal entity. A casino operator that is a joint tribal entity licensed under section 1011,**
30 **subsection 2-C shall collect and forward 25% of net slot machine income from slot**
31 **machines operated by the joint tribal entity for deposit to the General Fund.**

32 **2-E. Distribution of table game income from a casino operated by a joint tribal**
33 **entity. A casino operator that is a joint tribal entity licensed under section 1011,**
34 **subsection 2-C shall collect and forward 16% of net table game income from table games**
35 **operated by the joint tribal entity for deposit to the General Fund.'**

36

SUMMARY

37 This amendment makes the following changes to the bill.

- 38 1. Rather than allowing each federally recognized Indian tribe in the State to operate
39 a casino, it allows one legal entity, referred to as a joint tribal entity, the ownership of
40 which is held equally, either jointly or in common, by the Passamaquoddy Tribe, the

- 1 Penobscot Nation, the Aroostook Band of Micmacs and the Houlton Band of Maliseet
2 Indians, to apply for and receive a license to operate a casino.
- 3 2. It specifies that, as a condition of a joint tribal entity's receiving a license, a casino
4 must be located:
- 5 A. On land that on January 1, 2018 was owned by the Passamaquoddy Tribe, the
6 Penobscot Nation, the Aroostook Band of Micmacs or the Houlton Band of Maliseet
7 Indians or land held in trust by the United States or by any other person or entity for
8 the Passamaquoddy Tribe, the Penobscot Nation, the Aroostook Band of Micmacs or
9 the Houlton Band of Maliseet Indians;
- 10 B. On land located in the unorganized territory; or
- 11 C. On land in a municipality and that municipality approves of the operation of the
12 casino in that municipality, either by vote of its legislative body or in a referendum of
13 the voters of the municipality.
- 14 3. It exempts a casino licensed to a joint tribal entity from the provision in current
15 law that prohibits a new casino or slot machine facility from being located within 100
16 miles of an existing casino or slot machine facility. The amendment provides that a
17 casino licensed to a joint tribal entity may not be located within 50 miles of an existing
18 facility.
- 19 4. The amendment provides that a change in the composition of a joint tribal entity
20 does not invalidate a casino license issued to the entity as long as the change occurs no
21 sooner than 6 months after the license is issued and the entity still consists of at least 2
22 federally recognized Indian tribes in the State who own equal shares of the entity in its
23 entirety.
- 24 5. Finally, the amendment changes the provision in current law that states that
25 distributions of net slot machine revenue from the casino located in Oxford County to the
26 Penobscot Nation and the Passamaquoddy Tribe revert to the operator if one or both
27 operate or receive distributions from a newly licensed casino. The amendment provides
28 that the distribution of that slot machine revenue would instead be deposited into the
29 General Fund if either the Penobscot Nation or the Passamaquoddy Tribe operated or
30 received distributions from a newly licensed casino.

31 **FISCAL NOTE REQUIRED**

32 (See attached)



128th MAINE LEGISLATURE

LD 1201

LR 1992(02)

An Act To Authorize Tribal Gaming

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-697)

Committee: Veterans and Legal Affairs

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund
 Current biennium cost increase - Other Special Revenue Funds
 Current biennium revenue increase - General Fund
 Current biennium revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

This bill authorizes the Gambling Control Board to accept an application for a casino license from a joint tribal entity comprised of the Passamaquoddy Tribe, the Penobscot Nation, the Aroostook Band of Micmacs and the Houlton Band of Maliseet Indians. The location of the facility cannot be located within 50 miles of an existing casino facility. The facility would be taxed at the rate of 25% of net slot income and 16% of net table game income. The bill also requires that when the Passamaquoddy Tribe and the Penobscot Nation begin receiving distributions from the new joint tribal entity casino, the distributions they currently receive from the Oxford Casino will instead go to the General Fund.

The bill exempts the applicant for a casino license from paying the \$250,000 one-time non-refundable privilege fee and from the \$5,000,000 minimum license fee required by MRSA Title 8, section 1018, subsection 1-A, but the applicant would be subject to an application fee of \$225,000, a slot machine registration fee of \$35,000, a table game initial privilege fee of \$800,000 and a table game registration fee of \$800. This would generate \$1,060,800 in the first year for the Gambling Control Board. Renewal fees for the casino operator, slot machines registration, table games registration and a table games privilege fee will generate an estimated \$123,800 annually thereafter. Annual state General Fund costs associated with 4 positions and other related expenses are estimated to be \$878,835

Presented below is an estimate of the potential revenues that may be generated from the new facility and the subsequent distribution of those revenues. This fiscal note assumes a total of 350 slot machines and 8 table games, generating annual revenue of \$5,475,373 for the State's General Fund. A reduction in revenue to Hollywood Casino and Oxford Casino is anticipated because of the increased competition for customers created by the new casino. That reduction's impact on the General Fund is not estimated at this time but would be partially offset by this bill's provision that the current distributions from Oxford Casino to the Passamaquoddy Tribe and the Penobscot Nation be diverted to the General Fund once the Passamaquoddy Tribe and the Penobscot Nation begin receiving revenue from the new casino. Overall, the authorization of a third casino which distributes 25% of net slot machine income and 16% of net table game income to the General Fund will result in significant additional revenue to the General Fund.

CA (H-697)

Summary of Casino Revenue

	Annual Estimate
Gross Slot Income (total value of money, tokens, credits and other value used to play a slot machine)	\$194,818,750
Player Payback - Slot Income	<u>\$174,752,419</u>
Net Slot Income	\$20,066,331
Operator Share of Net Slot Income - 75%	<u>\$15,049,748</u>
Share of Net Slot Income for Distribution - 25%	<u>\$5,016,583</u>
Net Table Game Income	\$2,867,440
Operator Share of Net Table Game Income - 84%	<u>\$2,408,650</u>
Share of Net Table Game Income for Distribution - 16%	<u>\$458,790</u>
Total General Fund Revenue Annually	<u><u>\$5,475,373</u></u>

	1st year Estimate
Casino Operator Initial Application Fee	\$225,000
Slot Machine Registration Fee \$100 x 350 machines	\$35,000
Table Games Initial Privilege Fee \$100,000 x 8 tables	\$800,000
Table Games Registration Fees \$100 x 8 tables	<u>\$800</u>
Total Other Special Revenue to Gambling Control Board - 1st year only	<u><u>\$1,060,800</u></u>

Casino Operator Renewal Fee	\$80,000
Slot Machine Renewal Fee \$100 x 350 machines	\$35,000
Table Games Annual Privilege Fee \$1000 x 8 tables	\$8,000
Table Games Renewal Fees \$100 x 8 tables	<u>\$800</u>
Total Other Special Revenue to Gambling Control Board - Annually after 1st year	<u><u>\$123,800</u></u>

Summary of Expenditure Impacts to the State

General Fund - Public Safety	<u><u>\$878,835</u></u>
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