



PROPOSITION 26 – In Depth Supplement

Allows In-Person Roulette, Dice Games, Sports Wagering on Tribal Lands.

Introduction

This is one of two propositions that deal with gambling in California. Prop 26 deals mostly with gambling in American Indian tribal casinos. A group of tribes circulated a petition gathering enough signatures to qualify for the 2022 ballot.

Background and Situation

The California Constitution generally prohibits gambling. Over the years, the Constitution was amended to allow certain forms of gambling in certain locations. Currently the California Lottery, card rooms in which card games like a form of poker are allowed, betting on horse racing, and some forms of gambling in American Indian owned casinos are allowed. Nevada casino style gambling is prohibited. Sports betting is also not legal.

American Indian tribes have a specific status under federal law. They are sovereign nations. The federal government has jurisdiction over commerce with foreign nations, among states, and with American Indian tribes. So any state regulation of tribal activity is limited to what is allowed by federal law and agreements, called compacts, between the state and each tribe as approved by the federal government. The federal Indian Gaming Regulatory Act declares that Congress seeks to advance tribal economic development, tribal self-sufficiency, and strong tribal governments. The compacts determine such things as what payments are to be made by the tribal casinos to state and local governments.

Gambling is regulated by the compacts, and by state and federal law. The California Gambling Control Commission is the state regulatory body. It is responsible for setting policy, establishing regulations, making determinations of suitability for gaming employees and other individuals and entities, issuing licenses, acting as the administrator of gaming revenues deposited into the Indian Gaming Special Distribution Fund (SDF) and the trustee over the revenues deposited into the Indian Gaming



Revenue Sharing Trust Fund (RSTF), and administering the provisions of the Gambling Control Act and the Tribal-State Gaming Compacts.

The California Department of Justice, district attorneys and city attorneys enforce criminal laws related to gambling.

Revenue generated from tribal casinos goes to the General Fund and to the funds mentioned above. One is a revenue sharing fund that sends money to tribes that do not have compacts for gaming. Another trust fund is used to cover regulatory costs of the state, payments to local governments, and to gambling addiction programs.

American Indian casinos are located on tribal land and are scattered throughout the state including in the more rural parts of the state. Cardrooms are more common in urban areas. They are regulated by state and local law. Cardroom payments help support the city budgets in which they operate. Card rooms and tribal casinos both offer card games.

A 2018 US Supreme Court decision struck down the federal law that banned sports betting in all states but Nevada. Since then approximately 35 states have legalized such betting in one form or another. Not all states have operational betting at this time. Oregon has had onsite and online sports betting since 2019 with one company running the online sports betting. Arizona started in 2021 with 3 vendors.

A bill that was substantially similar to Prop 26's content was introduced in 2020 after signature gathering began. It included a provision authorizing federally recognized Indian tribes to offer online sports wagering if offered through an independent online sports wagering platform that provides sports betting on behalf of the tribe and taxed it at a higher rate than sports betting onsite at casinos and racetracks. The bill was dropped by the author in the summer of 2020.

A word about card rooms. They have been in existence longer than tribal casinos have. Card rooms offer card games like poker, but a specific type of poker that is not like the games played in Nevada style casinos. There is a long running dispute between card rooms and tribal casinos about the legality of the games played in card rooms.

The lack of legal sports betting does not mean that Californians do not engage in it. An unpublished study from 2019 cited by estimates that Californians were making billions of dollars in sports bets either through bookies or offshore companies. The law does not prohibit "fantasy" teams because there is no betting on the outcomes of actual sports events.



The Proposal

Prop 26 would allow roulette and dice games plus sports betting in American Indian owned casinos. The terms and regulations on all of this would be negotiated in compacts with the state. The compact can specify the age at which it allows sports betting, required payments to state and local governments, and whether payment will go into the new California Sports Wagering Fund created by Prop 26. If payment does not go into the new fund, the compacts must provide for payment to the state for the cost of regulating sports betting in casinos.

Prop 26 would also allow racetracks to offer sports betting on their premises. This would only apply to the privately owned tracks that are in Alameda, Los Angeles, Orange, and San Diego Counties, a total of four tracks. The state legislature will make laws needed to implement the sports wagering at racetracks including consumer protection measures and anti-corruption measures. The racetracks would be required to pay ten percent (10%) of the net bets made at the track. Prize payments (winning bets) would be subtracted from the gross.

The revenue from racetrack sports betting is to be placed in the California Sports Wagering Fund and divided among the General Fund (70%), gambling enforcement costs (15%), and the remainder for gambling addiction and mental health programs. The portion of revenue designated for the state General Fund will be included in the calculations for minimum support of public education in K-12 schools and community colleges.

Sports betting must be done on the premises of the racetracks or casinos. No free standing kiosks are permitted.

Prop 26 offers some new enforcement against illegal gambling provisions. Any person/entity who violates certain provisions of the law would be liable for a civil penalty of \$10,000 per violation and possible suspension or closure of the operation.

In addition, Prop 26 would allow any person who becomes aware of violation to file a civil action for penalties and injunction. This is only allowed if the person or entity files a request for the Attorney General's office to act and the office does not file suit within 90 days of receiving the request. If judgment is rendered any penalty amount is deposited



in the California Sports Wagering Fund. The person/entity who filed the complaint does not receive the penalty amount.

Fiscal Effects

The Legislative Analyst Office points out that predictions of revenue and costs depend greatly on the implementation of Prop 26. The new games and sports betting in casinos would increase revenue if the new forms of betting are offered. But the details of how much revenue is dependent on the renegotiation of the tribal-state compacts that would define the terms. It also depends on how many people would make sports bets or participate in the new games. The impact of civil enforcement and new illegal gambling penalties is uncertain.

State revenues are anticipated to increase in the tens of millions of dollars each year. Some of that increase will affect the minimum amount of spending on education and therefore increase spending on that category.

Local government revenue is also uncertain. Cardrooms primarily provide revenue to local governments. The number of bettors who would shift their business to casinos that offer more games and sports betting is uncertain. Cardrooms might be impacted by the new enforcement provisions which would decrease their business. At the same time local governments could receive increased revenue from activities in the tribal casinos depending on the contents of tribal-state compact negotiations.

Regulatory costs would be impacted by Prop 26. The degree of impact depends on how sports betting is regulated. Total costs for regulator work are estimated to be in the low tens of millions each year. Some or all of the costs should be offset by money generated by the new forms of gambling.

Supporters Say

- Prop 26 will continue to aid the American Indians tribes to continue to develop self sufficiency..
- Casinos benefit the state of California by generating revenue that supports state programs and jobs.

Opponents Say



- Prop 26 is sponsored by powerful interests that will use the new enforcement provisions to bury card rooms in frivolous litigation.
- This proposition will expand gambling at horse racing tracks to save the racing industry that injures horses.

***Supporters:** (Signers of official arguments are in bold)

[YES on 26 - No on 27 Coalition for Safe, Responsible Gaming, Sponsored by California Indian Tribes](http://yeson26.com) yeson26.com

Barona Band of Mission Indians

American Indian Chamber of Commerce

Federated Indians, Graton Rancheria

Santa Ynez Band of Chumash Indians

Yocha Dehe Wintun Nation

Olin Jones, Former Director Office of Native American Affairs at California Department of Justice

Operation Safe House

Gold Coast Veterans Foundation

NAACP

SEIU Local 280

Los Angeles Metropolitan Churches

Eleni Kounalakis, Lt. Governor

Fiona Ma, California State Treasurer

***Opponents:** (Signers of official arguments are in bold)

[No on 26 - No on Gambling Power Grab](http://tasimcoalition.org) tasimcoalition.org

Society for the Prevention of Cruelty to Animals, Los Angeles

California Black Chamber of Commerce



National Veterans Foundation
California Senior Advocates League
American Federation of State, County, and Municipal Employees Local 36
Management Chapter

California Contract Cities Association
California Animal Welfare Association
Fresno Police Association
Black American Political Association of California
California Hispanic Chamber of Commerce
California Taxpayer Protection Committee
Compton Chamber of Commerce

*For information about total funding and major contributors, consult one of these sources: Voter's Edge (votersedge.org/ca), Power Search (powersearch.sos.ca.gov/quick-search.php), or Fair Political Practices Commission (www.fppc.ca.gov/transparency/top-contributors/nov-22-gen.html). The latter lists only the contributions of the campaign committees.