

California measure aims to resolve longstanding, expensive dispute over gambling rights

By Eric He

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A dispute over gambling rights in California has [led to an expensive battle](#) between tribal casinos and card rooms that could change the way the multibillion dollar industry operates.

Tribes have long contended that card rooms offering certain Vegas-style bank games — like blackjack and baccarat — violate a [voter-approved 2000 ballot measure](#) that exclusively allows tribal casinos to operate those sorts of games. They've framed the issue as infringement upon their sovereignty, while card rooms contend that multiple state attorneys general have yet to rule that their behavior is illegal, and that regulation would lead to layoffs at casinos.

[SB 549](#) from state Sen. [Josh Newman](#) (D-Fullerton) would allow tribes to sue card rooms over the games they offer, essentially allowing the California Supreme Court to decide the larger dispute. And while the proposal would not prejudice either party, card rooms are spending heavily in opposition to the matter being decided in court.

In an interview with POLITICO, Newman echoed a recent comment by Assemblymember [Isaac Bryan](#) (D-Los Angeles) that compared giving tribes exclusivity over certain gambling rights to a sort of reparations.

“Here you've got California Indian tribes that were dispossessed in their lands, and who have had real challenges across a whole bunch of channels — including behavioral health, education, infrastructure, etc.,” Newman said. “Did we want to grant to them the right to operate casinos and gambling to actually offset those costs and those historical disadvantages? And the answer was a resounding yes.”

WHAT'S IN THE BILL?

This Pro Bill Analysis is based on the [text of the bill](#) as amended on June 12.

The Tribal Nations Access to Justice Act (Sec. 1) would aim to allow “limited declaratory and injunctive relief action” to be filed against California card rooms in order to determine whether the card rooms are illegally operating some card games. In doing so, the bill would seek to resolve a “decade-long dispute” between tribes and card rooms regarding whether card rooms are infringing upon exclusive tribal gaming rights (Sec. 2).

The measure would allow a California Indian tribe that is part of a ratified tribal-state gaming compact or otherwise defined [under federal code](#) to file a lawsuit in superior court against licensed gambling enterprises — or card rooms — to determine if a controlled game run by the card room violates state law and exclusivity given to tribes. The [California Constitution allows](#) federally recognized Indian tribes to operate slot machines, lottery games and banking and percentage card games (Sec. 4).

Under SB 549, tribes would also be able to seek injunctive relief, which could include requiring the cardroom to stop operating the game. However, tribes would not be able to seek any money damages, penalties or attorney's fees. The court's decision would be binding and be considered a final judgment. Additionally, the court could hand down any injunctive relief it deems necessary. The court's review would be conducted “de novo,” or without considering prior court decisions or assumptions — but it would be allowed to review previously-submitted evidence (Sec. 4).

Tribes would have a window of three months — from when the bill would take effect in January until April 1, 2025 — to file lawsuits in the Superior Court of California in Sacramento County. All lawsuits filed under this bill would be able to be consolidated into one decision, in order to avoid inconsistencies across multiple cases.

The state, any recognized tribe and any licensed card room would be able to join as a party in a lawsuit filed under the law. But the bill would explicitly note that the state would not be liable to face any declaratory or injunctive relief.

Lastly, in its decision, a court would not be able to prevent a card room from increasing the number of gambling tables, as noted in the state's [Business and Professions Code](#).

WHO ARE THE POWER PLAYERS?

State Sen. **Josh Newman** introduced the bill last year at the urging of state Sen. [Toni Atkins](#) (D-San Diego), who was the Speaker pro Tempore at the time and is listed as a co-author. Assemblymember [Cecilia Aguiar-Curry](#) (D-Winters) is the principal co-author.

The measure is bipartisan, with 12 Democratic and seven Republican co-authors. The other co-authors include: state Sens. [Melissa Hurtado](#) (D-Bakersfield), [Dave Min](#) (D-Irvine) and [Scott Wilk](#) (R-Santa Clarita) and Assemblymembers [Isaac Bryan](#) (D-Los Angeles), [Wendy Carrillo](#) (D-Boyle Heights), [Phillip Chen](#) (R-Yorba Linda), [Damon Connolly](#) (D-San Rafael), [Bill Essayli](#) (R-Corona), [Matt Haney](#) (D-San Francisco), [Corey Jackson](#) (D-Moreno Valley), [Brian Maienschein](#) (D-San Diego), [Devon Mathis](#) (R-Porterville), [Kate Sanchez](#) (R-Trabuco Canyon), [Pilar Schiavo](#) (D-Chatsworth), [Marie Waldron](#) (R-Valley Center), [Greg Wallis](#) (R-Rancho Mirage), [Chris Ward](#) (D-San Diego) and [Akilah Weber](#) (D-La Mesa).

Tribal groups are backing the bill, while **card rooms** — along with cities where card rooms contribute substantially to revenue — are opposed. One card room, **Hawaiian Gardens Casino**, [spent more than \\$4 million](#) on lobbying between October and December last year as it fought the legislation — making it the top spender on lobbying in Sacramento in the last quarter of 2023.

Ed Manning, a lobbyist for Hawaiian Gardens, said at the [July 2 Assembly Governmental Organization Committee hearing](#) that card rooms closing would impact city workers and those whose jobs are tied to the casinos' operations. Manning added that an attorney general has yet to pull licenses from card rooms.

“Their argument is not that we're operating outside the law,” he said. “Their argument is we're operating consistent with the law, but they don't like the law.”

Meanwhile, **James Siva**, chair of the **California Nations Indian Gaming Association**, said at the hearing that, if card rooms are confident in the games they operate, “they should welcome the chance to prove it in a court of law.” He called SB 549 a “straightforward measure” that would lead to an impartial decision over whether card rooms are in violation of California law and tribal gaming exclusivity.

“As a tribal leader, as an Indian person, I am frustrated and saddened by the disproportionate treatment of tribal governments and these commercial operators who seem to scoff at the laws of this great state,” Siva said.

WHAT'S HAPPENED SO FAR?

The legislation revisits a hotly contested, decade-old dispute over who can offer what types of card games. Tribes contend that card rooms are skirting a law that gives them exclusive rights to games like blackjack, while card rooms argue that the matter is already settled and that tribes are trying to run them out of business.

Efforts to clear up the disagreement through the courts, state regulation and ballot initiatives haven't worked.

Newman's bill would give tribes legal standing — for just three months — to challenge card rooms in court if they believe the businesses are offering games illegally.

The millions of dollars spent by Hawaiian Gardens last year signals a willingness to put up a fight in the long-simmering battle. The company's general counsel, Keith Sharp, said the casino is willing to commit the necessary resources to protect itself — “now and in the future.”

Like other card rooms around the state, the one in Hawaiian Gardens acts as the biggest source of revenue for its community. The card room is responsible for nearly 70 percent of the annual municipal revenue — enough to cover the annual cost of public safety, public works and government operations in Hawaiian Gardens.

But Tuari Bigknife, attorney general for the Viejas Band of the Kumeyaay Indians, argues that card rooms are trampling over their exclusive rights and siphoning off a huge portion of revenue for tribes, which also rely on gambling as a main source of money.

“This is a direct take from tribal treasuries,” Bigknife said.

SB 549 squeaked past the Assembly Judiciary Committee by one vote last year. It was held as a two-year bill until this year, when it passed the Assembly Governmental Organization Committee on a 15-1 bipartisan vote on July 2. Assemblymember [Tina McKinnor](#) (D-Hawthorne) cast the lone dissenting vote, stating during the hearing that she was sympathetic to tribes but that card rooms were too important financially to her district. A couple of other lawmakers echoed those concerns.

“For many, many years, Inglewood would have gone into bankruptcy if we did not have those card rooms in our district — and they literally saved that city,” McKinnor said.

But the measure successfully passed the committee with overwhelming support, and lawmakers noted that the courts would be the best adjudicator of the issue.

WHAT’S NEXT?

The bill currently awaits a hearing in the Assembly Appropriations Committee’s suspense file before it would have to clear the Senate in a concurrence vote. The measure was introduced last June as an amendment to an unrelated bill.

Newman said he expects both sides to keep spending, calling them both “incredibly well-resourced” and that they happen to be spending on the “binary question” posed by the bill.

“I’d be surprised if it doesn’t continue along the same trajectory,” Newman said. “The stakes are fairly high, obviously, for both sides.”

Bigknife told POLITICO that he expects — as the bill allows — for all interested tribes and card rooms to join as a party under a lawsuit, with just one case moving forward. Then, the court’s decision would likely be appealed to the California Supreme Court, which would then ultimately decide the matter.

WHAT ARE SOME STORIES ON THE BILL?

[Read POLITICO news on SB 549.](#)

Sejal Govindarao contributed to this report.