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There is no doubt that 2008 will be a big year on many fronts for Tribal Gaming. The Indian Gaming Regulatory Act (IGRA) will celebrate its 20th anniversary in October, and presidential election year politics will likely weigh heavily on what happens (or what doesn't).

Compacts, sovereign immunity, Class II gaming and "reservation shopping" will continue to be hot issues in 2008. Let's talk about compacts first, which involve heated battles on both coasts.

In Florida, the governor inked a Class III gaming compact with the Seminole Tribe in November, which included beneficial revenue-sharing provisions to the state. This was a momentous occasion given that the Seminole had been pursuing a compact with the state virtually since the IGRA was passed in 1988. After years of extensive legal wrangling, the secretary of the interior was poised to issue "Class III Gaming Procedures" for the tribe, which likely would have cut out the state from any revenue-sharing monies.

In executing the compact, however, the governor failed to obtain legislative ratification, notwithstanding apparent earlier promises to do so. As a result, the House of Representatives promptly filed suit against the governor, seeking to invalidate the compact. The compact nevertheless was submitted to the secretary of the interior for review and approval. It was expected that the secretary would wait to see if the litigation issues could be expeditiously resolved prior to the Dec. 28 deadline for secretarial approval of the compact. As a result, the battles over the Seminole compact will definitely continue into 2008, and perhaps even beyond.

On the opposite coast, the California compact controversy will continue to rage in 2008. The major issue concerns whether the "Big Four" amended tribal compacts (Agua Caliente, Morongo, Sycuan and Pechanga), approved by the governor and the California Legislature in 2007, will be undone through public referenda votes in February (simultaneous with the California presidential primary). Under California law, these compacts were not to be considered effective until Jan. 1, 2008. These amended compacts would collectively add approximately 17,000 slot machines to the four Tribal Gaming operations. Opponents to the compacts were able to gather sufficient signatures to force a public vote on their viability.

To add fuel to the already hot fire, these compacts were deemed "approved" by the secretary of the interior through an administrative

oversight in late November. But the compacts are not considered "effective" for IGRA purposes until published in the Federal Register. The secretary was delaying publication of the compacts at the time this forecast was prepared, although it was uncertain how long the postponement would last. Whether the compacts are published prior to the February referenda will continue to be the subject of considerable legal wrangling of the compact proponents and opponents. The San Manuel amended compact also was approved by the governor and Legislature, although separately following approval of the Big Four Tribal Compacts. This compact was not subject to a public referendum and was due to be approved or disapproved by the secretary in late December.

Class II gaming regulations will remain on the front burner. The National Indian Gaming Commission (NIGC) issued revised regulations governing various aspects of Class II gaming in fall 2007, with comments to be submitted by late January. Both the tribes' and the gaming device manufacturers' reaction to the revised regulations was less than receptive. Expect continued fireworks on this subject in 2008.

Threats to tribal sovereignty will stay at the forefront in 2008. In November, dealers at the Foxwoods tribal casino, owned by the Mashantucket Pequot Nation, voted to form a United Auto Workers union. The election was conducted under National Labor Relations Board oversight after the board rejected a tribal appeal that federal labor laws did not apply on tribal land. The Pequot Nation filed a challenge to the elections. The case will be watched carefully as it progresses in 2008, as it has national implications for all tribal casinos and what is viewed as an encroachment on tribal sovereignty.

Although no amendments were proposed to the IGRA in 2007 with respect to "reservation shopping," that issue will still engender great controversy in 2008. The secretary of the interior issued letters early in 2007 advising the numerous tribal petitioners that greater scrutiny would be paid to land acquisitions for gaming purposes. The secretary also has plans to issue revised regulations governing such land acquisitions in 2008 (these revised regulations were expected in 2007, but nothing ever materialized).

As predicted, more and more tribes engaged in non-gaming business ventures in 2007 on and off their lands to diversify their economic base. Expect more of the same in 2008, particularly in light of the fact that the Tribal Gaming industry — notwithstanding all the above-referenced legal issues — grew from \$23 billion to \$25.7 billion in 2007. There appears to be no slowing up for 2008. ■

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