

Feinstein casino plan draws anger from tribes - San Jose Mercury News

Written by Administrator

Thursday, 09 December 2010 17:43 -

With just days left in a lame-duck Congress, U.S. Sen. Dianne Feinstein is stirring an uproar among Native American tribes across the country with her push to thwart them from gaining casino footholds in urban areas, or anywhere away from their clearly defined turf. A staunch opponent of Indian casinos in the Bay Area, Feinstein wields formidable power as chairwoman of an appropriations subcommittee that holds the purse strings for the Department of Interior, which oversees Indian land issues. Senate Majority Leader Harry Reid, D-Nevada reportedly backs her proposed legislation, while many tribal leaders and advocates attack it as a harsh broadside against "Indian Country."

"She has her eye on the Bay Area, but (her plan) would grotesquely and adversely affect many tribes across the country," said Judith Shapiro, a Washington attorney who represents several tribes with a stake in the outcome. "There's a lot of power in play right now."

Feinstein telegraphed her move last week in an opinion section piece in Bay Area News Group papers, casting last month's advisory vote in Richmond against a casino at Point Molate as a symbol of public concern over urban casinos in California. She and other critics say urban casinos would betray the will of state voters who a decade ago authorized gaming on Indian lands.

Federal regulations say tribes such as the Guidiville and Scotts Valley bands of Pomo Indians -- which seek casino land at Point

Molate and in North Richmond, respectively -- must show a "significant historical connection" to the area of the proposed casino, as well as a modern connection.

Those terms allow for interpretation, to account for varied tribal circumstances. Feinstein aims to wrench away the wiggle room.

According to documents provided by her office, she wants to force tribes to prove "substantial direct" modern and aboriginal ties to newly acquired casino land. Alternate language circulating on Capitol Hill would make tribes show a "clear and convincing historical and modern-day connection" to a proposed casino site.

Either way, tribal advocates fear it would bar virtually any casino project on newly acquired land -- even rural sites for landless tribes that have fought to regain federal recognition.

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Feinstein has tied her move to a separate bid in Congress to unwind a U.S. Supreme Court decision last year, known as "Carcieri," that stripped the Interior Department of the power to place any land in federal trust for tribes that were not under federal jurisdiction in 1934. Tribal interests have lobbied nearly two years for a "Carcieri fix."

That fix, Feinstein argues, would allow "reservation shopping" to continue. "If the Senate takes up this bill, I plan to offer legislation to make clear, once and for all, that reservation shopping is not acceptable in California," she wrote.

The House on Wednesday passed a Carcieri fix as part of a larger appropriations bill.

Shapiro, the tribal attorney, said fear of reservation shopping is overblown, noting that the Interior Department has approved a handful of "off-reservation" casino projects in more than two decades.

One gambling watchdog praised Feinstein's proposal, predicting it would stymie both Richmond-area casino plans.

"It's another layer that makes it very difficult for any of these tribes to move to an urban location," said Cheryl Schmit of Stand Up for California.

The Point Molate plan already stands on shaky political ground, after Richmond voters rejected Measure U on Nov. 2 and ushered in a firm anti-casino majority to the City Council. A spokesman for the Guidiville tribe did not return calls.

Feinstein's plan also threatens six years of Scotts Valley tribe work for a casino development along Richmond Parkway, spokesman Eric Zell said. The tribe, which like the Guidiville was restored to federal recognition through a legal settlement, argues that ancestors populated land around nearby San Pablo Bay.

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Under Feinstein's plan, "we'd have to show there was some kind of direct aboriginal connection to the parcel of land we're proposing," Zell said. "That's not how the game has been set up. We're not going to find (tribal ancestors') bones underneath the greenhouse, and that's not what is required."

Several California tribes are angry with Feinstein for a lack of transparency and failure to consult them, Zell said. They also worry about deals between Feinstein and Reid. The Senate majority leader continued Thursday to push legislation backed by Nevada casino interests to legalize online gambling and to give established casino and racetrack operators a leg up in licensing.

A Feinstein spokeswoman refused to elaborate on her plan. The senator has railed against urban casinos ever since Rep. George Miller, D-Martinez, wrote a brief "technical correction" into an omnibus Indian bill in 2000, granting casino land in San Pablo to the Lytton Band of Pomo Indians.

Calling it legislation "done in the dead of night," she threatened, but ultimately failed, to reverse it. The state Legislature balked at a gaming compact for Lytton, which now operates more than 1,000 lucrative electronic bingo machines but cannot run Vegas-style slots.

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