

1 SB26
2 179200-1
3 By Senators Albritton, Pittman and Livingston (Constitutional
4 Amendment)
5 RFD: Tourism and Marketing
6 First Read: 15-AUG-16

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8 SYNOPSIS: The bill would propose an amendment to the
9 Constitution of Alabama of 1901, to require the
10 Governor to negotiate a compact for gaming with the
11 Poarch Band of Creek Indians.

12
13 A BILL
14 TO BE ENTITLED
15 AN ACT
16

17 Proposing an amendment to the Constitution of
18 Alabama of 1901, to require the Governor to negotiate a
19 compact for gaming with the Poarch Band of Creek Indians.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. The following amendment to the
22 Constitution of Alabama of 1901, as amended, is proposed and
23 shall become valid as a part thereof when approved by a
24 majority of the qualified electors voting thereon and in
25 accordance with Sections 284, 285, and 287 of the Constitution
26 of Alabama of 1901, as amended:

27 PROPOSED AMENDMENT

1 Section 1. (a) The Governor or the Governor's
2 designee is hereby authorized and instructed to negotiate in
3 good faith and conclude a compact for the operation of Class
4 III gaming as defined in the Indian Gaming Regulatory Act, and
5 which includes, but is not limited to: (1) slot machines, (2)
6 video lottery terminals, (3) banking or banked card games,
7 including, but not limited to, baccarat, chemin de fer, and
8 blackjack, and (4) table games, including, but not limited to,
9 roulette and craps, with the Poarch Band of Creek Indians on
10 lands held in trust by the United States for the benefit of
11 the Poarch Band of Creek Indians pursuant to Section 5 of the
12 Indian Reorganization Act of 1934.

13 (b) Gaming pursuant to a compact as described in
14 this section is permitted to be conducted and operated by the
15 Poarch Band of Creek Indians for a term of more than 25 years
16 on those lands held in trust by the United States for the
17 benefit of the Poarch Band of Creek Indians pursuant to
18 Section 5 of the Indian Reorganization Act of 1934 in return
19 for consideration under terms to be established in the
20 compact.

21 (c) Notwithstanding Section 22 of Article I or
22 Section 93 of Article IV of the Official ReCompilation of the
23 Constitution of Alabama of 1901, as amended, the Governor, or
24 the Governor's designee, in addition to any and all other
25 powers of the office which may exist now or hereafter, may
26 negotiate, execute, and deliver any and all documents on
27 behalf of the state, and enter into any agreement or compact,

1 or both, on behalf of the state, with any potential gaming
2 operator in furtherance of any gaming and resort project if
3 the gaming and resort project is likely to provide or maintain
4 job opportunities to individuals, including citizens and
5 residents of the state, even if the project is to be located
6 on property owned by or held in trust by the United States for
7 the benefit of the Poarch Band of Creek Indians. In
8 furtherance of the powers set forth herein, and in addition to
9 any and all other powers which may exist now or hereafter, the
10 state may provide, without limitation as to any other rights
11 or interests which it is authorized to provide under relevant
12 law, contractual, license, or licensure rights to any one or
13 more parties, without regard to any type of request for
14 proposal process and without regard to whether the contractual
15 or licensure rights are granted on an exclusive or
16 non-exclusive basis or whether in perpetuity or shorter period
17 of time, so long as the provision or granting of rights or
18 interest or other thing of value by the state to any potential
19 gaming operator has been negotiated in good faith. If
20 negotiated in good faith by the state, any consideration
21 received or to be received by the state pursuant to this
22 amendment, whether monetary or otherwise, shall be adequate
23 and no action shall be had for private inurement or other
24 unlawful waste, use, or misappropriation of public funds.

25 (d) Following completion of negotiations and
26 execution of a compact, the Governor or the Governor's
27 designee shall submit a copy of the executed compact to the

1 President Pro Tempore of the Senate and the Speaker of the
2 House of Representatives as soon as it is executed. The
3 Governor or the Governor's designee shall file the executed
4 compact with the Secretary of State.

5 (e) The Secretary of State shall forward a copy of
6 any executed compact to the United States Secretary of the
7 Interior for his or her review and approval, in accordance
8 with 25 U.S.C. § 2710(d)(8).

9 (f) Disputes between the state and the Poarch Band
10 of Creek Indians relating to or arising from the compact or
11 compact negotiations may be resolved in the courts of the
12 United States, which shall have jurisdiction over the state.
13 The state's immunity under the Eleventh Amendment of the
14 United States Constitution is expressly waived for the limited
15 purpose of dispute resolution in federal court, contingent
16 upon an equivalent submission by the Poarch Band of Creek
17 Indians to the jurisdiction of the federal court.

18 Section 2. The operation of this amendment is not
19 subject to, prohibited, limited, or impaired by any other
20 constitutional provision or statute, whenever enacted, that is
21 inconsistent with the provisions of this amendment.

22 Section 2. An election upon the proposed amendment
23 shall be held in accordance with Sections 284 and 285 of the
24 Constitution of Alabama of 1901, now appearing as Sections 284
25 and 285 of the Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, and the election laws of this
27 state.

1 Section 3. The appropriate election official shall
2 assign a ballot number for the proposed constitutional
3 amendment on the election ballot and shall set forth the
4 following description of the substance or subject matter of
5 the proposed constitutional amendment:

6 "Proposing an amendment to the Constitution of
7 Alabama of 1901, to require the Governor to negotiate a gaming
8 compact with the Poarch Band of Creek Indians.

9 "Proposed by Act _____."

10 This description shall be followed by the following
11 language:

12 "Yes () No ()."