



## **Senecas debate gaming compact as council delays election on issue**

*No copy of compact has been delivered*

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by: Jim Adams / Managing Editor / Indian Country Today

CATTARAUGUS, N.Y. - Putting off a referendum, Seneca Nation members are vigorously debating a proposed gaming compact with New York state while waiting to see the document.

The vote scheduled Aug. 7 is indefinitely postponed, said a tribal spokesman. "It might take place in August and it might take place later," she said. The nation is waiting for progress on the plan in the state Assembly, Seneca President Cyrus M. Schindler said.

In the meantime, the Seneca Peacemakers court dismissed one challenge to the compact, and foes of the agreement are waiting to see the finished document before going back to tribal court.

"Our attorney said we will have a stronger case when we have a copy of the compact," said Susan Abrams, a former tribal attorney who is organizing the group Senecas Against the Casino Compact. The memorandum available, she said, is not legally binding. She argues that the compact could compromise tribal sovereignty.

On July 31, Senior Peacemaker Ralph Bowen at the Allegany Reservation threw out one suit brought by Bob Jones. The complaint charged that tribal officials violated their code of ethics by not making public the travel expenses they incurred while secretly negotiating the compact. If they had done so, Jones said tribal members could have known what was happening.

The court session on July 31 was meant to schedule a hearing, Jones said, but after Bowen questioned both sides, he went ahead and made his decision. "I'm amazed," Jones said. "This is going to get shoved down everybody's throat."

Schindler announced the outlines of the pact with Republican New York Gov. George E. Pataki June 20. It would establish Seneca-owned casinos in the economically depressed cities of Buffalo and Niagara Falls and allow a possible third on the Seneca reservation. A bill endorsing the deal zipped through the Republican-controlled State Senate the next day.

But Democratic Assembly Speaker Sheldon Silver is holding up the bill in the lower legislative body, and the compact has ballooned into a major issue in state politics. It is also drawing intense criticism from within the tribe, which voted two to one against a casino in a 1994 referendum.

Although Schindler did not return calls, his office provided a question and answer sheet about the compact saying it was negotiated "at the direction of the Seneca people."

"On May 2, 1998, by referendum vote, the people of the Seneca Nation voted to pursue a Class III (casino style) gaming compact, so long as any agreement is submitted to and approved by the Seneca people in a separate referendum vote.

"Furthermore, the current sitting executive officers and councilors were elected to office on a promise to pursue economic development for the Nation, including the establishment of a Class III gaming facility."

Tribal leaders are holding public meetings to explain the deal, still in the form of a six-page Memorandum of Understanding. They have set up a telephone information center to answer members' questions. At a July 17 hearing, every member of the elected tribal council made a statement endorsing the compact.

But Abrams dismissed the session as "basically a propaganda meeting for the casino." She complained that members had only 45 minutes for questions and were given "misleading" answers.

Abrams was a leader of the Seneca Nation's vehement rejection of a state gasoline tax compact in 1996, which forced Gov. Pataki to abandon a policy they said infringed on tribal sovereignty. In the gaming compact, too, she argues, "there will be a compromise of tribal sovereignty."

The elected leaders who negotiated the gaming compact also were active in fighting the 1996 tax compact, Abrams admitted. "They've done a complete about-face," she said, adding that their main concern in both cases was their business interest.

She cited several examples which she said infringed on sovereignty:

- a provision for arbitration she called very similar to one the U.S. Supreme Court recently ruled was a voluntary cession of sovereign immunity

- a special tort tribunal to hear injury claims from casino patrons

- supervision by the New York State Racing and Wagering Commission

Abrams argued that an agreement to share 25 percent of slot machine revenues with the state would subject the casino's financial records to state scrutiny. "The compact will open the books to New York state so it can ascertain that it's getting its share."

In one of the most controversial provisions, the memorandum would give Seneca casinos exclusive rights to the highly profitable slot machines in the western third of New York. In return the state would receive a share of the "net drop," receipts after winnings payouts, that would increase to 25 percent over the 14 years of the compact.

Along with some state politicians, Abrams said this deal violated a state constitutional ban on slot machines. But she added it also trampled on the rights of two other tribes in the Iroquois Confederacy, the Tonawanda Seneca and the Tuscarora. Leaders of the other tribes could not be reached for comment.

She said the deal "insulted the other tribes" by binding them without consulting their representatives.

The tribal government's fact sheet, however, reported that other American Indian tribes are excepted from the exclusivity deal, provided they don't locate their gaming facilities within 25 miles of the Seneca casinos.

If the state were to break the exclusivity deal, by allowing non-Indians to run slots in the Seneca territory, said the sheet, "we no longer pay the state its revenue share."

Like some leaders in Buffalo and Niagara Falls, Abrams criticized the state's proposed high share of the casino take, which she said would come out before expenses. However, she said she was not against casinos in general and would prefer to stick with the Class II gaming already offered on the reservation.

"We would not have to deal with the state. We would not have to share the profits with anyone else and probably wind up making more money for our nation than we will with the casino."

However, the handout shows the casinos will pay the nation an estimated .4 billion during the first 14-year term of the compact. (The memorandum provides an automatic seven-year renewal.)

The casinos will directly provide 3,000 to 4,000 jobs, the handout said, and thousands more through their economic impact.

"With respect to the creation of jobs on the Allegany and Cattaraugus territories the revenue generated by the casino will be utilized for the type of economic development projects that will produce hundreds and thousands of jobs.

"Also, the revenue generated by the casinos will provide much needed funding for completing and improving the nation's infrastructure, for example, schools, hospitals, roads, housing and water and sewer systems. Again, a large workforce will be required to complete this work."

Abrams was a moving force in defeating a May 1994 referendum for casino gambling. The margin was 714 to 444. Although the vote was supposed to settle the issue, she said pro-gaming forces brought it up again in 1998 and won 51 percent approval for an off-reservation casino. But the '94 vote still banned the casino on reservation land that the gaming compact would allow, she said.

The anti-compact group hired Oklahoma lawyer Geoffrey Standing Bear to bring the suit in the Seneca Nation's Peacemakers court. Abrams said the case would probably wind up in federal court. The group also is retaining attorney Joseph Hill, an enrolled Seneca, Abrams said, because of his knowledge of some arcane treaty questions

also raised by the compact.

Both sides are bolstering their cases by bringing in outside speakers. At a July 31 press conference, Schindler introduced Rick Hill, a leader of the Oneida of Wisconsin, to describe the impact of their casino. Abrams said she was inviting members of the Shenandoah family, opponents of the Oneida Indian Nation's Turning Stone Casino in Verona, N.Y., to present a video on their position.

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