



**House
Legislative
Analysis
Section**

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**INDIAN TRIBES/CANADA
REFERENCE**

**Senate Bill 112 as passed by the Senate
First Analysis (6-4-02)**

**Sponsor: Sen. Bill Schuette
House Committee: Regulatory Reform
Senate Committee: Economic
Development, International Trade and
Regulatory Affairs**

THE APPARENT PROBLEM:

In a policy statement on state-tribal affairs issued last year, Governor Engler called for Indian tribes to be given the authority to be parties to agreements under the Urban Cooperation Act (UCA). The act provides that a public agency of this state may exercise jointly with another public agency of this or another state, with a public agency of the Dominion of Canada, or with a public agency of the United States, any power or authority that the agencies share in common and may exercise separately, pursuant to an intergovernmental agreement. Obviously, such intergovernmental agreements can be very beneficial to the governmental units involved and the people that they serve.

An issue has come up recently that illustrates why such an expansion of the UCA should be considered. The National Cherry Festival, held each year in Traverse City, draws approximately 1 million attendees. This year, festival organizers have scheduled several festival concerts to be held in the arena of the Turtle Creek entertainment facility owned and operated by the Grand Traverse Band of Ottawa and Chippewa Indians. The facility, which houses a casino, is located on tribal land that is held in trust by the U.S. Secretary of the Interior. The concern lies in the fact that the tribal police have arrest powers for crimes committed on tribal land by Native Americans, but not for crimes committed by non-Native Americans. Though serious crime at the facility by non-Natives is rare, there have been over 400 arrests of non-Natives in the past two years (mostly drunk and disorderly incidents and minor assaults). However, tribal police officers lack the jurisdictional authority over non-Natives to make arrests, and so must wait for the state police to respond. The tribe would like to enter into an agreement with the state police so that tribal officers can be deputized to have arrest powers over non-Native visitors, but there is no legal authority to do

so. Legislation has been proposed to amend the UCA so that Indian tribes that have land in trust can take full advantage of intergovernmental agreements along with other public agencies.

Further, it has been recommended that the reference to the "Dominion of Canada" contained in the UCA be changed to "Canada".

THE CONTENT OF THE BILL:

The bill would amend the Urban Cooperation Act to specify that "agency of the United States" within the act's definition of "public agency" would include a federally recognized Indian tribe exercising governmental authority over land within Michigan. The bill provides, however, that neither the act nor any intergovernmental agreement entered into under it could authorize the approval of a Class III gaming compact negotiated under the federal Indian Gaming Regulatory Act.

The bill also would replace references to the "Dominion of Canada" in the act with "Canada".

MCL 124.502 et al.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no state or local fiscal impact. (5-29-02)

ARGUMENTS:

For:

Twelve federally recognized Indian tribes exist within the state, and all but three exercise governmental authority over lands held in trust by the federal Secretary of the Interior. Yet, tribal

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governments remain the only recognized sovereign entities that are not included as a public agency under the Michigan Urban Cooperation Act. Apparently, when the UCA was first enacted in the 1960s, tribal governments were not seen as viable political entities. However, many changes have occurred in the ensuing decades that now necessitate acknowledging the role that tribal governments play in state affairs. The advent of Indian gaming has ushered in a new prosperity that has benefited both Native Americans and non-Natives, as a portion of gaming revenues have been reinvested in local communities. Also, Indian-operated casinos and entertainment facilities have been drawing increasing numbers of tourists to Indian lands and surrounding areas.

According to information supplied by the governor's office, amending the Urban Cooperation Act to allow tribal governments to enter into agreements with local and state governmental agencies would be beneficial for several reasons. One area of benefit pertains to police jurisdiction. Currently, tribal police officers only have authority over crimes committed on tribal lands by Native Americans; state and local police do not have arrest powers on tribal land, even if the crime were committed by a non-Native. If the act were amended, the state police could enter into agreements with Tribal authorities. This could allow for tribal police to be deputized by the state police. Once deputized, tribal officers could arrest non-Native Americans who violate state law while on tribal lands. A reciprocal agreement could also end confusion over which police agency has jurisdiction, and therefore which agency should respond, as it is not always apparent if a person involved in an incident is a Native American or a non-Native American. It would also solve the dilemma posed when officers are in pursuit of a drunk driver and the person drives off of tribal land, or vice versa.

Including tribal governments in the UCA could also allow for agreements regarding the delivery of emergency services (fire and EMS), the operation of regulatory programs under the Clean Water and Air Acts that relate to occupational health and safety, and public services such as sewer and water services. Though some local governments have entered into agreements with tribal governments for some services, amending the UCA would provide a clear legal basis to do so.

Against:

With authority to enter into agreements with state and/or local governments, it would seem that the UCA could be used to authorize more Indian casinos.

Response:

According to information supplied by legal counsel in the governor's office, the UCA is restricted to agreements relating to powers and authorities that public agencies share in common and that the agencies may exercise separately. Under provisions of the federal Indian Gaming Regulatory Act (IGRA), the state and tribes (or local governments) do not share common authority over gaming; therefore, the UCA would not provide statutory authority for the state or local governments to enter into gaming compacts with Indian tribes.

POSITIONS:

The Office of Governor supports the bill. (5-30-02)

The Grand Traverse Band of Ottawa and Chippewa Indians supports the bill. (5-30-02)

The Michigan State Troopers Association supports the bill. (5-30-02)

The Little Traverse Bay Bands of Ottawa Indians support the bill. (5-30-02)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.