

**DOYLE GAMING COMPACTS MAY BE UNCONSTITUTIONAL  
ACCORDING TO NON-PARTISAN LEGISLATIVE COUNCIL  
Lawmakers ask for Immediate Suspension of Federal Approval  
Process**

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**MADISON...**An Indian gaming compact negotiated by Governor Jim Doyle likely violates both state statutes and the Wisconsin Constitution, according to the non-partisan Legislative Council. In a memo released today, senior attorneys from the Legislative Council highlighted four different areas of state law that the Governor may have violated with the Indian gaming compact he has negotiated with the Potawatomi tribe this February.

Legislative leaders responded to the Legislative Council's memo by requesting US Secretary of the Interior, Gail Norton, to instruct the Bureau of Indian Affairs (BIA) to suspend consideration of the Potawatomi compact until the legal issues raised by the Legislative Council can be resolved.

"We've already seen that the Governor's breakneck pace on these compacts has circumvented all public input and legislative oversight," said Assembly Speaker John Gard (R-Peshtigo). "Now it appears that his hasty action may have also circumvented state law and the Wisconsin Constitution. I think it's time to call a time out and make sure that these compacts have all their legal ducks in a row."

The non-partisan Legislative Council noted four areas in which the proposed compact would be open to legal challenge:

1. **The compact impermissibly expands the scope of gaming** – *"The compact clearly authorizes the tribe to conduct games that are now prohibited by the state... it can be argued that the scope of gaming originally authorized may not be expanded because of the intervening constitutional and statutory amendments."*
2. **The compact makes an illegal appropriation of state funds** – *"A compact may not make an appropriation of funds received by the state from the tribe. Only the Legislature, through passage of a bill, may make an appropriation."*

(more)

3. **The compact waives the state's sovereign immunity in violation of the Wisconsin Constitution** – *“...the Governor did not have explicit authority to agree to the provisions in the compact allowing suit against the state because the Legislature had not directed that such a suit may be brought under art. IV, s. 27. Whether there was sufficiently implied authorization by the Legislature may be debated, but, in general courts have required explicit legislative authorization.”*
  
4. **The compact violates the separation of powers doctrine** – *“The question to be resolved is whether the action of the Governor in agreeing to a compact that might not be terminated unduly burdens or substantially interferes with the Legislature's constitutional authority.”*

“The issues raised by the Legislative Council are cause for great concern,” said Senate Majority Leader Mary Panzer (R-West Bend). “I would hope that the federal Bureau of Indian Affairs would withhold any action on the proposed Potawatomi compact until these legal questions are definitively resolved.”

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