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Departure Of Key Brown Aide Clouds California Tribal Policy

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Relations between California's politically powerful American Indian tribes and Governor Jerry Brown may be hindered by the departure in early September of senior adviser Jacob Appelsmith, tribal lawyers and lobbyists said this week.

Appelsmith, Brown's point man in renegotiating tribal-state gambling compacts with 59 tribes operating 60 casinos, is trusted by Indian leaders and has helped the governor generate widespread support from the state's 109 federally-recognized tribes.

"I think he is irreplaceable," said Michael Lombardi, gaming commissioner for the Augustine Band of Cahuilla Indians. "He is truly a unique person, in terms of character, intellect, ability to communicate. He has a true affection for Indians and an appreciation of Indian history."

"It's a great loss," said Jacob Coin, executive director of public affairs for the San Manuel Band of Serrano Mission Indians.

"His record of openness and responsiveness to tribes is unprecedented in state government. He's always been honest and straightforward."

Appelsmith's departure from Brown's staff to become chief counsel for the University of California, Davis comes at a difficult time for the governor.

Brown is in the **formative stages** of renegotiating tribal-state gambling compacts for the nation's most lucrative Indian casino market. California casino revenues in 2012 reached \$7.08bn, about a fourth of the \$27.9bn won by tribes nationwide.

Brown also is facing increasing criticism for his tribal land-into-trust policies.

Anti-gambling groups, some legislators and even **a few Indian tribes** were angered by Brown's decision last year to sign off on Department of Interior rulings placing off-reservation casino land in trust for the North Fork and Enterprise rancherias.

Critics fear **federal recognition** and land/trust policies, if not checked by state officials, will result in a spread of Indian casinos into urban areas.

Senate Democrat Kevin DeLeon last week sent a letter to Brown asking the governor not to submit additional casino land/trust agreements to the legislature for ratification until a "coherent" state-wide policy is adopted.

"I am deeply concerned by the current ad hoc process of approving off-reservation gaming projects which does not sufficiently protect state interests and our residents," DeLeon said.

The legislature last month ratified a tribal-state compact allowing the North Fork Mono Indians to build a 2,000-slot machine casino in Madera County. A similar agreement with the Enterprise Maidu Indians in Yuba County is scheduled to go before lawmakers this year or early 2014.

Meanwhile, tribal leaders are growing increasingly unnerved by state Attorney General opinion letters in opposition to federal applications by tribes to place land in trust for casinos and other purposes.

Two of the letters oppose efforts by the Cloverdale Rancheria of Pomo Indians

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and Mechoopda Maidu Indians to place land in trust for casinos.

Lawyers with the Attorney General's Department of Justice contend about a dozen recent opposition letters reflect the policies of the Attorney General's "client," meaning the governor's office.

But sources told GamblingCompliance Brown was "blindsided" by the letters.

"I don't think we'll be commenting," said Brown spokesman Evan Westrup.

Brown served as state Attorney General before running for governor in 2011, a campaign partly **financed with more than \$1m from the state's Indian tribes**. Brown was previously governor from 1975 to 1983.

California gambling tribes earlier this year contributed \$275,000 toward Brown's ballot initiative to raise taxes on sales and the wealthy, an effort that eliminated a state budget deficit.

Appelsmith also served with the Department of Justice, for a time as chief of the Bureau of Gambling Control. He recently urged California tribes to **forge a compromise on online poker** legislation and move ahead with regulation.

Both Appelsmith and Brown have supported tribal self-governance and primacy in regulating tribal casinos.

One of Brown's recent actions was to create the position of tribal adviser, a job filled by Cynthia Gomez, a citizen of the Tule River Tribe who heads the California Native American Heritage Commission.

The state's pro-Indian policies will likely continue as long as Brown is in office.

"I always got the impression when [Appelsmith] was speaking that he was speaking on behalf of the governor," said a tribal lawyer who requested anonymity. "I never got the sense he had his own agenda or initiative.

"I don't know to what extent he was an advocate for a particular position. I don't know what happened behind closed doors, between him and the governor."

Compacts with 48 of the 59 casino tribes are set to expire in 2020. Tribes are anxious to extend the compacts so they can better secure long-term financing for reservation projects.

The governor's office is expected to seek stronger language in the agreements to ensure mitigation efforts for counties and municipalities.

But Brown will not pursue the revenue-sharing demanded by former Governor Arnold Schwarzenegger (2003-2011) that was later rejected by the 9th Circuit Court of Appeals.

Tribal leaders and lawyers have found Appelsmith to be receptive to their concerns. He has already **restructured compacts with two tribes** burdened by Schwarzenegger revenue-sharing deals that threatened to put them out of business.

There have been two compact "listening sessions" with tribal leaders, with a third and final session scheduled for August 28 at the Thunder Valley casino-resort near Sacramento. More intense negotiations are expected to follow.

Appelsmith's replacement is expected to attend the Thunder Valley meeting. Sources said Brown may also attend the meeting.

Attorney Scott Crowell, a lead attorney in the compact talks, expressed disappointment at Appelsmith's pending departure.

"Certainly Jacob has presented himself, first with the Department of Justice and later with the governor's office, to be truly a good listener and has a record of making a serious effort to meet tribes' legitimate concerns," Crowell said.

"From that respect it's difficult to imagine that anyone the governor appoints to replace him could really fill the void created by his departure."

Crowell said he could not predict what impact Appelsmith's departure will have on

negotiations.

"It all turns on who the governor appoints to replace him," Crowell said.

"That's going to be a concern," San Manuel's Coin said.

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