

Alabama-Coushatta Tribe of Texas' Request for Support for H.R. 759

Federal Approval

In 2015, the National Indian Gaming Commission (“NIGC”) determined that the Alabama-Coushatta Tribe of Texas (“the Tribe”) and the Ysleta del Sur Pueblo (“the Pueblo”) were permitted to offer Class II electronic bingo under the Indian Gaming Regulatory Act (“IGRA”). In reaching its decision, the NIGC undertook the analysis required by IGRA before approving any tribe’s Class II gaming ordinance. Specifically, the NIGC determined that Texas permitted the playing of bingo, that the lands on which the Tribe and Pueblo intended to locate their gaming facilities were held in trust prior to October 17, 1988, and the 1987 Restoration Act (“Act”) that restored federal recognition for both the Tribe and Pueblo did not otherwise prohibit the Nations from gaming under IGRA.

Based on the NIGC’s approval of the Tribe’s gaming ordinance (“Ordinance”), the Tribe opened its Naskila electronic bingo facility in 2016. Thereafter, the Texas Attorney General sued the Tribe, arguing that a 1994 Fifth Circuit Case between Texas and the Pueblo precluded the NIGC from approving the Tribe’s gaming ordinance. That case, *Ysleta del sur Pueblo v. Texas* (“*Ysleta I*”), 36 F.3d 1325 (5th Cir. 1994), found that the Act, not IGRA, controlled the ability of the Nations to game and required the Nations to abide by Texas gaming laws and regulations. The Tribe countered by asserting that the NIGC’s decision to approve the Ordinance was a final agency decision entitled to deference by the federal courts under United States Supreme Court precedent.

Ruling

A three-judge panel of the United States Court of Appeals for the Fifth Circuit issued an opinion on March 14, 2019 that found that the NIGC’s decision to approve the Ordinance was not entitled to deference and finding further that IGRA does not apply to the Tribe. The Tribe believes that the Fifth Circuit’s opinion is incorrect and intends to continue pursuing review to ensure the protection of its economic venture, Naskila, and the jobs that have been created in Deep East Texas. According to an independent economic study, the Tribe’s Naskila bingo facility is responsible for creating over 560 jobs and contributing \$136 million annually dollars to the economy in Polk County; jobs and dollars that will be lost if Naskila is forced to shut down.

H.R. 759

H.R. 759 adds one sentence to the Restoration Act under *Sec. 301. Rule of Construction*: “Nothing in this Act shall be construed to preclude or limit the applicability of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)” This House Resolution simply clarifies that the Pueblo and Tribe are permitted to offer Class II electronic bingo, under the federal Indian Gaming Regulatory Act (“IGRA”), just like the other federally recognized Tribe in Texas, the Kickapoo Traditional Tribe of Texas.

Tribe’s Request

The Tribe needs your help, please take a moment to let your Texas elected representatives know that you stand behind the Alabama-Coushatta Tribe of Texas and Naskila Gaming as they strive to protect Texas jobs through the passage of H.R. 759. Your support of H.R. 759 will go toward preserving the Tribe’s sovereign right to game, protect Texas jobs, and end the decades of litigation that has cost Texas taxpayers’ millions of dollars.