

California Gaming Update: The End of the Brown Administration

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Compacts Since 1999:

- Gov. Davis - 1999 61 tribal-state gaming compacts
- 2000- 3 additional “1999” compacts
- 2003- 3 New Compacts introduced “revenue sharing” to the State General Fund- 5% of the Net Win

- After 1999, Tribal governments, in an apparent act of desperation, began to agree to increasing amounts of taxes paid to the State General Fund.
- Fear mongering from tribal attorneys and political consultants resulted in increasingly more onerous compact terms.

Schwarzenegger Compacts

- Gov. Schwarzenegger - 2004
- 8 ratified compacts
- 5 Amended 1999 compacts paid “Fair Share” to the State General Fund and adopt more strict provisions in exchange for unlimited number of slots
- – major concessions with little given in exchange since few will need “unlimited slots”
 - Unite HERE-Solidifies its seat in the negotiations- It’s hard to go back
 - Lawsuits ensue– Rincon and Racetracks/Cardrooms
- 3 ratified compacts – Coyote Valley, Ft. Mojave, Buena Vista
 - Los Coyotes and Big Lagoon lowered the bar for what would be given away to open a casino.

2006- It Gets Worse

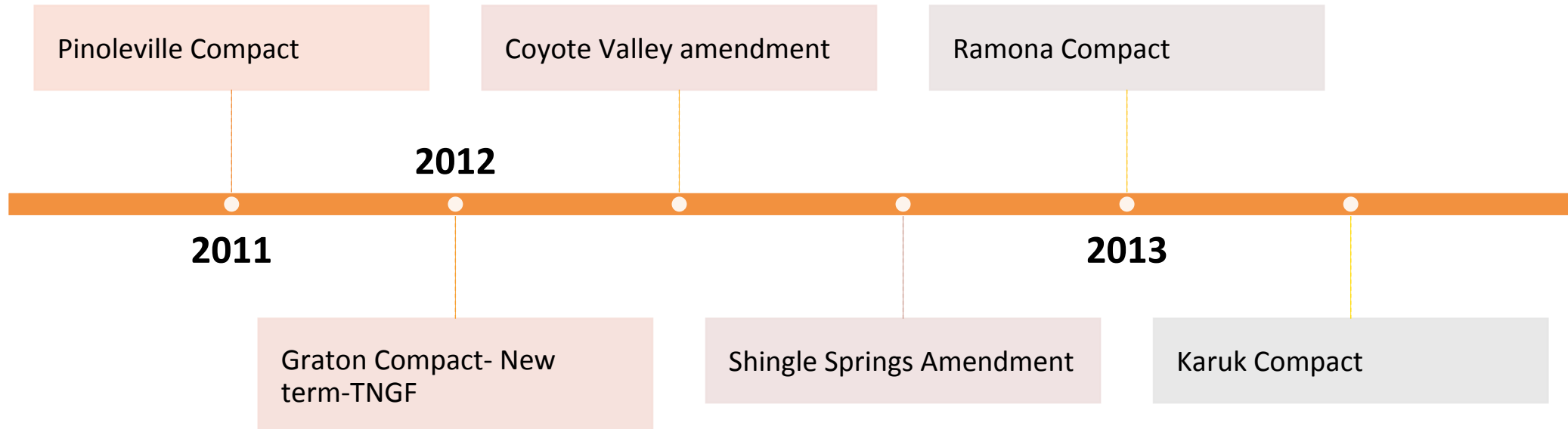
- Quechan agrees to between 10% and 25% of its net win in order to operate no more than 1100 machines. An example of one of the worst compacts out there.
- Other tribes opposed the ratification, but it took effect in late 2006.
- Yurok Tribe gets a new compact similar to Quechan.

- 5 Tribes (Morongo, San Manuel, Agua Caliente, Pechanga and Sycuan) negotiate compacts that conceded to the state tax demands (at least 15%), but held off on expanded labor provisions.
 - Legislature failed to ratify without the “card-check” and other expanded labor provisions.
 - 4 of the Tribes agreed to separate MOU’s to get the new compacts ratified in 2007. New concessions for more slots. San Manuel negotiates separate (less onerous) terms in light of its particular circumstances.
 - Compacts were subject to a statewide referendum- Voter ratified compacts.

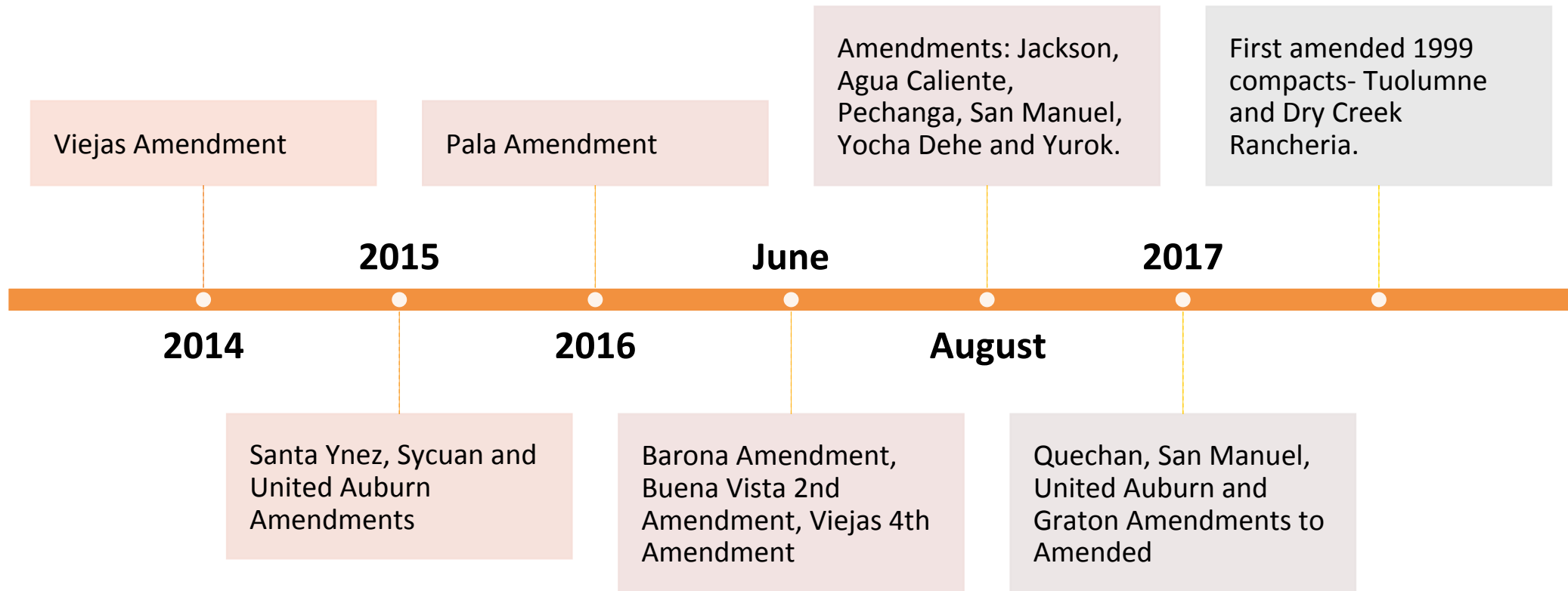
And worse- 2008

- Shingle Springs Compact
 - Under pressure to open
 - State taking the position that there are no “licenses” available.
 - Compact negotiated by a non-lawyer with ties to Schwarzenegger.
 - Tribe agrees to the most expensive Compact in the State.
- Sadly, the Tribe faced the perfect storm:
 - Hostile Governor
 - Hostile Legislature
 - Bad Compacts preceding it
 - Picked the wrong person to lead negotiations.

2011:Governor Brown: A rocky beginning:



With solid decisions in the *Rincon* and *Pauma* litigation, negotiations improve:



Governor Brown has goals too:

Protect the Revenue Sharing Trust Fund.

All tribes with more than 200 machines* will be asked to pay regulatory costs.

Allow enough slots for each market, but Tribes will pay for higher numbers of slots.

Payments will go to less fortunate Tribes through the RSTF and the TNGF (in addition to other special funds based on each Tribe's preference).

TLRO is important for ratification- it is a political issue that Tribes will lose in the Capitol – But Unite HERE is not interested in the smaller facilities and most larger facilities are done.

There is room for negotiation in the middle - if Tribes are open-minded and reasonable, the State will be too.

LESSONS LEARNED FROM THIS ADMINISTRATION:

1

Always argue your specific facts to achieve the best result. Advocate for your positives and explain why you are seeking certain terms.

2

This administration will work with you if you work with them -- But don't waste their time.
With so many at the table, get to work.

3

Don't negotiate against yourself, tribes have a history of being their own (and each others') worst enemy.

In Closing

There is an opportunity before the Tribes of California to gain certainty and protect what has been developed.

No one can say with certainty who will be in office next, and what they will do with the Compacts.

But a path has been created for others to follow if they wish.