108TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
108–535

AMENDING THE ACT OF NOVEMBER 2, 1966 (80 STAT. 1112), TO ALLOW BINDING ARBITRATION CLAUSES TO BE INCLUDED IN ALL CONTRACTS AFFECTING THE LAND WITHIN THE SALT RIVER PIMA-MARICOPA INDIAN RESERVATION

JUNE 9, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources, submitted the following

R E P O R T

[To accompany H.R. 4115]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4115) to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4115 is to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

BACKGROUND AND NEED FOR LEGISLATION

The Act of November 2, 1966, authorizes the Salt River Pima-Maricopa Indian Community, with the approval of the Secretary of the Interior, to lease its Indian lands for various purposes, including business purposes. Section 2(c) of the Act (25 U.S.C. 416a(c)) allows the tribe to include binding arbitration clauses in such leases. Without such binding arbitration clauses, many investors would not be interested in doing business with the tribe because there would be no means of enforcing contracts.

An amendment to a related provision of law (25 U.S.C. 81) has made it unclear whether the tribe may put binding arbitration clauses into all of its contracts and leases.

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H.R. 4115 clarifies that the tribe may include binding arbitration clauses in all its contracts for business development on its reservation, pursuant to the Act of November 2, 1966. In requesting introduction of the legislation, the tribe advises that unless it were authorized to include binding arbitration clauses in all contracts and leases for development projects on the reservation, it stands to lose significant new business investors. The tribe is located in a prime area for commercial development and it has been very aggressive in diversifying its economic portfolio.

COMMITTEE ACTION

H.R. 4115 was introduced on April 1, 2004, by Congressman J.D. Hayworth (R–AZ). The bill was referred to the Committee on Resources. On May 19, 2004, the Full Resources Committee met to consider the bill. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 25, 2004.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4115, a bill to amend the act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Lanette J. Walker.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 4115—To amend the act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation

H.R. 4115 would allow the Pima-Maricopa tribe to include binding arbitration clauses in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation. Under current law, the tribe may not include such clauses in certain contracts including subleases, master leases, and tenant leases. CBO estimates that implementing H.R. 4115 would have no effect on the federal budget.

H.R. 4115 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the Salt River Pima-Maricopa Indian Community.

The CBO staff contact for this estimate is Lanette J. Walker. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 2 OF THE ACT OF NOVEMBER 2, 1966

AN ACT To authorize long-term leases on the San Xavier and Salt River Pima-Maricopa Indian Reservations, and for other purposes.

SEC. 2. (a) * * *

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(c) [Any lease entered into under this Act or the Act of August 9, 1955 (69 Stat. 539), as amended, or any contract entered into under section 2103 of the Revised Statutes, as amended, affecting land] *Any contract, including a lease, affecting land* within the Salt River Pima-Maricopa Indian Reservation may contain a provision for the binding arbitration of disputes arising out of [such lease or contract. Such leases or contracts entered into pursuant to such Acts] *such contract. Such contracts* shall be considered within the meaning of "commerce" as defined and subject to the provisions of section 1 of title 9, United States Code. Any refusal to submit to arbitration pursuant to a binding agreement for arbitration or the exercise of any right conferred by title 9 to abide by the outcome of arbitration pursuant to the provisions of chapter 1 of title 9, sections 1 through 14, United States Code, shall be deemed to be a civil action arising under the Constitution, laws or treaties of the United States within the meaning of section 1331 of title 28, United States Code.

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