

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 742

Introduced by Assembly Member Nestande

February 17, 2011

An act to amend Section ~~12012.85~~ 12715 of the Government Code, relating to the ~~Indian Gaming Special Distribution Fund~~, to tribal gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 742, as amended, Nestande. ~~The Indian Gaming Special Distribution Fund~~. Tribal gaming: local agencies.

Existing law creates in the State Treasury the Indian Gaming Special Distribution Fund for the receipt and deposit of moneys received by the state from certain Indian tribes pursuant to the terms of gaming compacts entered into with the state. Existing law authorizes moneys in that fund to be used for specified purposes, including for grants for the support of state and local government agencies impacted by tribal government gaming.

Existing law, until January 1, 2021, creates a County Tribal Casino Account in the treasury of each county that contains a tribal casino. Existing law requires the Controller to divide the County Tribal Casino Account for each county that has gaming devices that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund into a separate account, known as an Individual Tribal Casino Account, for each tribe that operates a casino within the county. Each Individual Tribal Casino Account is required to be funded in proportion to the amount that each individual tribe paid in the prior

fiscal year to the Indian Gaming Special Distribution Fund, and used for grants to local agencies impacted by tribal casinos, as specified.

Existing law establishes an Indian Gaming Local Community Benefit Committee in each county in which gaming is conducted, specifies the composition and responsibilities of that committee, and requires that committee to make the selection of grants from the casino accounts. Among other things, the committee is responsible for establishing all application policies and procedures for grants from the casino accounts.

This bill would require each grant application to clearly show how the grant will mitigate the impact of the casino on the grant applicant.

Existing law requires every state agency and local government agency to adopt and promulgate a Conflict of Interest Code applicable to enumerated positions within the agency and designated employees, as specified.

This bill would require each Indian Gaming Local Community Benefit Committee to adopt and approve a Conflict of Interest Code pursuant to these provisions. The bill would require any existing Conflict of Interest Code to be reviewed and amended as necessary to bring it into compliance with these requirements.

By increasing the duties of local government entities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law establishes the Indian Gaming Special Distribution Fund in the State Treasury for the receipt and deposit of moneys received by the state from Indian tribes. These moneys are available for appropriation by the Legislature for specified purposes.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 **SECTION 1.** *Section 12715 of the Government Code is*
2 *amended to read:*

3 12715. (a) The Controller, acting in consultation with the
4 California Gambling Control Commission, shall divide the County
5 Tribal Casino Account for each county that has gaming devices
6 that are subject to an obligation to make contributions to the Indian
7 Gaming Special Distribution Fund into a separate account for each
8 tribe that operates a casino within the county. These accounts shall
9 be known as Individual Tribal Casino Accounts, and funds may
10 be released from these accounts to make grants selected by an
11 Indian Gaming Local Community Benefit Committee pursuant to
12 the method established by this section to local jurisdictions
13 impacted by tribal casinos. Each Individual Tribal Casino Account
14 shall be funded in proportion to the amount that each individual
15 tribe paid in the prior fiscal year to the Indian Gaming Special
16 Distribution Fund.

17 (b) (1) There is hereby created in each county in which Indian
18 gaming is conducted an Indian Gaming Local Community Benefit
19 Committee. The selection of all grants from each Individual Tribal
20 Casino Account or County Tribal Casino Account shall be made
21 by each county's Indian Gaming Local Community Benefit
22 Committee. In selecting grants, the Indian Gaming Local
23 Community Benefit Committee shall follow the priorities
24 established in subdivision (g) and the requirements specified in
25 subdivision (h). This committee has the following additional
26 responsibilities:

27 (A) Establishing all application policies and procedures for
28 grants from the Individual Tribal Casino Account or County Tribal
29 Casino Account. *Each grant application shall clearly show how*
30 *the grant will mitigate the impact of the casino on the grant*
31 *applicant.*

32 (B) Assessing the eligibility of applications for grants from local
33 jurisdictions impacted by tribal gaming operations.

34 (C) Determining the appropriate amount for reimbursement
35 from the aggregate county tribal account of the demonstrated costs
36 incurred by the county for administering the grant programs. The
37 reimbursement for county administrative costs may not exceed 2

1 percent of the aggregate county tribal account in any given fiscal
2 year.

3 (2) Except as provided in Section 12715.5, the Indian Gaming
4 Local Community Benefit Committee shall be composed of seven
5 representatives, consisting of the following:

6 (A) Two representatives from the county, selected by the county
7 board of supervisors.

8 (B) Three elected representatives from cities located within four
9 miles of a tribal casino in the county, selected by the county board
10 of supervisors. In the event that there are no cities located within
11 four miles of a tribal casino in the county, other local
12 representatives may be selected upon mutual agreement by the
13 county board of supervisors and a majority of the tribes paying
14 into the Indian Gaming Special Distribution Fund in the county.
15 When there are no cities within four miles of a tribal casino in the
16 county, and when the Indian Gaming Local Community Benefit
17 Committee acts on behalf of a county where no tribes pay into the
18 Indian Gaming Special Distribution Fund, other local
19 representatives may be selected upon mutual agreement by the
20 county board of supervisors and a majority of the tribes operating
21 casinos in the county. However, if only one city is within four
22 miles of a tribal casino and that same casino is located entirely
23 within the unincorporated area of that particular county, only one
24 elected representative from that city shall be included on the Indian
25 Gaming Local Community Benefit Committee.

26 (C) Two representatives selected upon the recommendation of
27 a majority of the tribes paying into the Indian Gaming Special
28 Distribution Fund in each county. When an Indian Gaming Local
29 Community Benefit Committee acts on behalf of a county where
30 no tribes pay into the Indian Gaming Special Distribution Fund,
31 the two representatives may be selected upon the recommendation
32 of the tribes operating casinos in the county.

33 (3) *The Indian Gaming Local Community Benefit Committee*
34 *shall adopt and approve a Conflict of Interest Code pursuant to*
35 *Article 3 (commencing with Section 87300) of Chapter 7 of Title*
36 *9. Any existing Conflict of Interest Code shall be reviewed and*
37 *amended as necessary to bring it into compliance with the*
38 *requirements of Article 3 (commencing with Section 87300) of*
39 *Chapter 7 of Title 9.*

1 (c) Sixty percent of each Individual Tribal Casino Account shall
2 be available for nexus grants on a yearly basis to cities and counties
3 impacted by tribes that are paying into the Indian Gaming Special
4 Distribution Fund, according to the four-part nexus test described
5 in paragraph (1). Grant awards shall be selected by each county's
6 Indian Gaming Local Community Benefit Committee and shall
7 be administered by the county. Grants may be awarded on a
8 multiyear basis, and these multiyear grants shall be accounted for
9 in the grant process for each year.

10 (1) A nexus test based on the geographical proximity of a local
11 government jurisdiction to an individual Indian land upon which
12 a tribal casino is located shall be used by each county's Indian
13 Gaming Local Community Benefit Committee to determine the
14 relative priority for grants, using the following criteria:

15 (A) Whether the local government jurisdiction borders the Indian
16 lands on all sides.

17 (B) Whether the local government jurisdiction partially borders
18 Indian lands.

19 (C) Whether the local government jurisdiction maintains a
20 highway, road, or other thoroughfare that is the predominant access
21 route to a casino that is located within four miles.

22 (D) Whether all or a portion of the local government jurisdiction
23 is located within four miles of a casino.

24 (2) Fifty percent of the amount specified in subdivision (c) shall
25 be awarded in equal proportions to local government jurisdictions
26 that meet all four of the nexus test criteria in paragraph (1). If no
27 eligible local government jurisdiction satisfies this requirement,
28 the amount specified in this paragraph shall be made available for
29 nexus grants in equal proportions to local government jurisdictions
30 meeting the requirements of paragraph (3) or (4).

31 (3) Thirty percent of the amount specified in subdivision (c)
32 shall be awarded in equal proportions to local government
33 jurisdictions that meet three of the nexus test criteria in paragraph
34 (1). If no eligible local government jurisdiction satisfies this
35 requirement, the amount specified in this paragraph shall be made
36 available for nexus grants in equal proportions to local government
37 jurisdictions meeting the requirements of paragraph (2) or (4).

38 (4) Twenty percent of the amount specified in subdivision (c)
39 shall be awarded in equal proportions to local government
40 jurisdictions that meet two of the nexus test criteria in paragraph

1 (1). If no eligible local government jurisdiction satisfies this
 2 requirement, the amount specified in this paragraph shall be made
 3 available for nexus grants in equal proportions to local government
 4 jurisdictions meeting the requirements of paragraph (2) or (3).

5 (d) Twenty percent of each Individual Tribal Casino Account
 6 shall be available for discretionary grants to local jurisdictions
 7 impacted by tribes that are paying into the Indian Gaming Special
 8 Distribution Fund. These discretionary grants shall be made
 9 available to all local jurisdictions in the county irrespective of any
 10 nexus to impacts from any particular tribal casino, as described in
 11 paragraph (1) of subdivision (c). Grant awards shall be selected
 12 by each county’s Indian Gaming Local Community Benefit
 13 Committee and shall be administered by the county. Grants may
 14 be awarded on a multiyear basis, and these multiyear grants shall
 15 be accounted for in the grant process for each year.

16 (e) (1) Twenty percent of each Individual Tribal Casino Account
 17 shall be available for discretionary grants to local jurisdictions
 18 impacted by tribes that are not paying into the Indian Gaming
 19 Special Distribution Fund. These grants shall be made available
 20 to local jurisdictions in the county irrespective of any nexus to
 21 impacts from any particular tribal casino, as described in paragraph
 22 (1) of subdivision (c), and irrespective of whether the impacts
 23 presented are from a tribal casino that is not paying into the Indian
 24 Gaming Special Distribution Fund. Grant awards shall be selected
 25 by each county’s Indian Gaming Local Community Benefit
 26 Committee and shall be administered by the county. Grants may
 27 be awarded on a multiyear basis, and these multiyear grants shall
 28 be accounted for in the grant process for each year.

29 (A) Grants awarded pursuant to this subdivision are limited to
 30 addressing service-oriented impacts and providing assistance with
 31 one-time large capital projects related to Indian gaming impacts.

32 (B) Grants shall be subject to the sole sponsorship of the tribe
 33 that pays into the Indian Gaming Special Distribution Fund and
 34 the recommendations of the Indian Gaming Local Community
 35 Benefit Committee for that county.

36 (2) If an eligible county does not have a tribal casino operated
 37 by a tribe that does not pay into the Indian Gaming Special
 38 Distribution Fund, the moneys available for discretionary grants
 39 under this subdivision shall be available for distribution pursuant
 40 to subdivision (d).

1 (f) (1) For each county that does not have gaming devices
2 subject to an obligation to make payments to the Indian Gaming
3 Special Distribution Fund, funds may be released from the county's
4 County Tribal Casino Account to make grants selected by the
5 county's Indian Gaming Local Community Benefit Committee
6 pursuant to the method established by this section to local
7 jurisdictions impacted by tribal casinos. These grants shall be made
8 available to local jurisdictions in the county irrespective of any
9 nexus to any particular tribal casino. These grants shall follow the
10 priorities specified in subdivision (g) and the requirements specified
11 in subdivision (h).

12 (2) Funds not allocated from a county tribal casino account by
13 the end of each fiscal year shall revert back to the Indian Gaming
14 Special Distribution Fund. Moneys allocated for the 2003–04 fiscal
15 year shall be eligible for expenditure through December 31, 2004.

16 (g) The following uses shall be the priorities for the receipt of
17 grant moneys from Individual Tribal Casino Accounts: law
18 enforcement, fire services, emergency medical services,
19 environmental impacts, water supplies, waste disposal, behavioral,
20 health, planning and adjacent land uses, public health, roads,
21 recreation and youth programs, and child care programs.

22 (h) In selecting grants pursuant to subdivision (b), an Indian
23 Gaming Local Community Benefit Committee shall select only
24 grant applications that mitigate impacts from casinos on local
25 jurisdictions. If a local jurisdiction uses a grant selected pursuant
26 to subdivision (b) for any unrelated purpose, the grant shall
27 terminate immediately and any moneys not yet spent shall revert
28 to the Indian Gaming Special Distribution Fund. If a local
29 jurisdiction approves an expenditure that mitigates an impact from
30 a casino on a local jurisdiction and that also provides other benefits
31 to the local jurisdiction, the grant selected pursuant to subdivision
32 (b) shall be used to finance only the proportionate share of the
33 expenditure that mitigates the impact from the casino.

34 (i) All grants from Individual Tribal Casino Accounts shall be
35 made only upon the affirmative sponsorship of the tribe paying
36 into the Indian Gaming Special Distribution Fund from whose
37 Individual Tribal Casino Account the grant moneys are available
38 for distribution. Tribal sponsorship shall confirm that the grant
39 application has a reasonable relationship to a casino impact and
40 satisfies at least one of the priorities listed in subdivision (g). A

1 grant may not be made for any purpose that would support or fund,
2 directly or indirectly, any effort related to the opposition or
3 challenge to Indian gaming in the state, and, to the extent any
4 awarded grant is utilized for any prohibited purpose by any local
5 government, upon notice given to the county by any tribe from
6 whose Individual Tribal Casino Account the awarded grant went
7 toward that prohibited use, the grant shall terminate immediately
8 and any moneys not yet used shall again be made available for
9 qualified nexus grants.

10 (j) A local government jurisdiction that is a recipient of a grant
11 from an Individual County Tribal Casino Account or a County
12 Tribal Casino Account shall provide notice to the public, either
13 through a slogan, signage, or other mechanism, stating that the
14 local government project has received funding from the Indian
15 Gaming Special Distribution Fund and further identifying the
16 particular Individual Tribal Casino Account from which the grant
17 derives.

18 (k) (1) Each county's Indian Gaming Local Community Benefit
19 Committee shall submit to the Controller a list of approved projects
20 for funding from Individual Tribal Casino Accounts. Upon receipt
21 of this list, the Controller shall release the funds directly to the
22 local government entities for which a grant has been approved by
23 the committee.

24 (2) Funds not allocated from an Individual Tribal Casino
25 Account by the end of each fiscal year shall revert back to the
26 Indian Gaming Special Distribution Fund. Moneys allocated for
27 the 2003–04 fiscal year shall be eligible for expenditure through
28 December 31, 2004. Moneys allocated for the 2008–09 fiscal year
29 shall be eligible for expenditure through December 31, 2009.

30 (l) Notwithstanding any other law, a local government
31 jurisdiction that receives a grant from an Individual Tribal Casino
32 Account shall deposit all funds received in an interest-bearing
33 account and use the interest from those funds only for the purpose
34 of mitigating an impact from a casino. If any portion of the funds
35 in the account is used for any other purpose, the remaining portion
36 shall revert to the Indian Gaming Special Distribution Fund. As a
37 condition of receiving further funds under this section, a local
38 government jurisdiction, upon request of the county, shall
39 demonstrate to the county that all expenditures made from the

1 account have been in compliance with the requirements of this
2 section.

3 *SEC. 2. If the Commission on State Mandates determines that*
4 *this act contains costs mandated by the state, reimbursement to*
5 *local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

8 ~~SECTION 1. Section 12012.85 of the Government Code is~~
9 ~~amended to read:~~

10 ~~12012.85. There is hereby created in the State Treasury a fund~~
11 ~~called the "Indian Gaming Special Distribution Fund" for the~~
12 ~~receipt and deposit of moneys received by the state from Indian~~
13 ~~tribes pursuant to the terms of tribal-state gaming compacts. Money~~
14 ~~in the Indian Gaming Special Distribution Fund shall be available~~
15 ~~for appropriation by the Legislature for the following purposes:~~

16 ~~(a) Grants, including any administrative costs, for programs~~
17 ~~designed to address gambling addiction.~~

18 ~~(b) Grants, including any administrative costs, for the support~~
19 ~~of state and local government agencies impacted by tribal~~
20 ~~government gaming.~~

21 ~~(c) Compensation for regulatory costs incurred by the State~~
22 ~~Gaming Agency and the Department of Justice in connection with~~
23 ~~the implementation and administration of tribal-state gaming~~
24 ~~compacts.~~

25 ~~(d) Payment of shortfalls that may occur in the Indian Gaming~~
26 ~~Revenue Sharing Trust Fund. This shall be the priority use of~~
27 ~~moneys in the Indian Gaming Special Distribution Fund.~~

28 ~~(e) Disbursements for the purpose of implementing the terms~~
29 ~~of tribal labor relations ordinances promulgated in accordance with~~
30 ~~the terms of tribal-state gaming compacts ratified pursuant to~~
31 ~~Chapter 874 of the Statutes of 1999. No more than 10 percent of~~
32 ~~the funds appropriated in the Budget Act of 2000 for~~
33 ~~implementation of tribal labor relations ordinances promulgated~~
34 ~~in accordance with those compacts shall be expended in the~~
35 ~~selection of the Tribal Labor Panel. The Department of Personnel~~
36 ~~Administration shall consult with and seek input from the parties~~
37 ~~prior to any expenditure for purposes of selecting the Tribal Labor~~
38 ~~Panel. Other than the cost of selecting the Tribal Labor Panel, there~~
39 ~~shall be no further disbursements until the Tribal Labor Panel,~~
40 ~~which is selected by mutual agreement of the parties, is in place.~~

- 1 ~~(f) Any other purpose specified by law.~~
- 2 ~~(g) Priority for funding from the Indian Gaming Special~~
- 3 ~~Distribution Fund is in the following descending order:~~
- 4 ~~(1) An appropriation to the Indian Gaming Revenue Sharing~~
- 5 ~~Trust Fund in an aggregate amount sufficient to make payments~~
- 6 ~~of any shortfalls that may occur in the Indian Gaming Revenue~~
- 7 ~~Sharing Trust Fund.~~
- 8 ~~(2) An appropriation to the Office of Problem and Pathological~~
- 9 ~~Gambling within the State Department of Alcohol and Drug~~
- 10 ~~Programs for problem gambling prevention programs.~~
- 11 ~~(3) The amount appropriated in the annual Budget Act for~~
- 12 ~~allocation between the Department of Justice and the California~~
- 13 ~~Gambling Control Commission for regulatory functions that~~
- 14 ~~directly relates to Indian gaming.~~
- 15 ~~(4) An appropriation for the support of local government~~
- 16 ~~agencies impacted by tribal gaming.~~