

AMENDED IN SENATE APRIL 19, 2021
AMENDED IN SENATE MARCH 10, 2021

SENATE BILL

No. 712

Introduced by Senator Hueso

February 19, 2021

An act to add Article 11 (commencing with Section 54260) to Chapter 5 of Part 1 of Division 2 of Title 5 ~~to~~ of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 712, as amended, Hueso. ~~Local government duties relative to government: California tribes: tribes: federal fee-to-trust applications to regain ancestral lands.~~

Existing federal law sets forth policies and procedures governing the acquisition of land by the United States in trust status for specified individuals and tribes. Existing federal law requires the Secretary of the Interior to notify the state and local governments having regulatory jurisdiction over the land to be acquired, and authorizes the state or local government to provide written comments as to the acquisition's potential impacts on regulatory jurisdiction, real property taxes, and special assessments.

Existing law enumerates powers and duties common to cities, counties, and other agencies.

This bill would encourage *state and* local governments, as defined, to ~~(1) seek opportunities to support California federally recognized tribes' comanagement of, and access to, lands that are within the tribe's ancestral land and under the ownership or control of the local government; (2) work cooperatively with tribes in their efforts to acquire lands in excess of the local government's needs, by prioritizing~~

~~tribal purchase or transfer; (3) work cooperatively with fee-to-trust applications for purposes of regaining ancestral lands, and to support tribes in their nongaming fee-to-trust applications; (4) adopt preferential policies and practices conducive to a tribe's efforts to access land, as provided, and acquire land in trust. applications. The bill would prohibit local governments from adopting or enforcing a resolution or ordinance that would prevent a tribe from a fair evaluation of a fee-to-trust application based on its merits. The bill would require local governments, when submitting comments as described above, to consider economic benefits, as provided, prior to adopting a position on a fee-to-trust application, and if the local government submits an opposition letter or other document, to include the economic benefits therein. a local government that opposes an application to include the economic benefits to the county from both the project that is the subject of the application and the tribe's contribution to the local jurisdiction in the last 5 years in any opposition letter or other document submitted to the federal government, as specified. By requiring additional duties by local governments, 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 the statutory provisions noted above.

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

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

1 SECTION 1. Article 11 (commencing with Section 54260) is
2 added to Chapter 5 of Part 1 of Division 2 of Title 5 of the
3 Government Code, to read:

4

5 Article 11. Native American Ancestral Lands

6

7 54260. The Legislature finds and declares all of the following:

8 (a) In the early decades of California's statehood, the
9 relationship between the state and California Native Americans

1 was fraught with violence, exploitation, ~~dispossession~~
2 *dispossession*, and the attempted destruction of tribal communities.
3 In 1850, California passed a law called the “Act for the
4 Government and Protection of Indians,” which facilitated removing
5 California Native Americans from their traditional lands, separating
6 children and adults from their families, ~~languages~~ *languages*, and
7 culture, and creating a system of indentured servitude as
8 punishment for minor crimes such as loitering.

9 (b) Between the years 1850 and 1859, California Governors
10 called for private and militia campaigns against Native American
11 peoples in the state. In his 1851 State of the State Address,
12 California’s first Governor declared “[t]hat a war of extermination
13 will continue to be waged between the two races until the Indian
14 race becomes extinct must be expected.” Subsequently, the state
15 authorized \$1,290,000 in 1850’s dollars to subsidize these militia
16 campaigns.

17 (c) Despite these wrongs, California Native Americans resisted,
18 survived, and carried on cultural and linguistic traditions defying
19 all odds.

20 (d) On June 18, 2019, the Governor of the State of California
21 signed Executive Order N-15-19 formally apologizing to
22 California’s Native Americans for historical mistreatment, violence,
23 and neglect; and acknowledged and affirmed that, while we cannot
24 undo these wrongs, we can work together to improve the lives of
25 California Native American peoples.

26 (e) On September 25, 2020, the Governor of the State of
27 California issued a Statement of ~~Administrative Administration~~
28 Policy (hereinafter “~~Policy~~”) “*policy*”) which encouraged every
29 state agency, department, board, and commission to seek
30 opportunities to provide access and inclusion of ancestral lands to
31 Native American peoples.

32 (f) The purpose of this policy is to support tribal
33 self-determination and self-government, and reduce fractionation
34 of tribal trust lands, among others things.

35 (g) The actions associated with this policy include, but are not
36 limited to, working cooperatively with California tribes that have
37 ancestral territory within state-owned lands, assist them in
38 acquiring those lands by prioritizing tribal purchase or transfer,
39 and adopting preferential policies and practices for California tribes
40 to access natural lands owned by the state that are located within

1 ancestral lands, including coordinating with local governments to
2 zone natural land in excess of state needs in a way that is conducive
3 to tribal access and use.

4 (h) The Legislature acknowledges that structural barriers to
5 access and acquisition of ancestral lands have been prevalent at
6 all levels of government, and promoting equity on both the state
7 and local levels is of utmost importance.

8 54261. (a) “Economic benefits” as used in this article may
9 include, but are not limited to the following:

- 10 (1) Employment growth.
- 11 (2) Housing development.
- 12 (3) Infrastructure and environmental improvements.
- 13 (4) Assistance to schools and education.
- 14 (5) Assistance to public safety agencies and departments.
- 15 (6) Assistance to nonprofit organizations.

16 (b) “Fee-to-trust” refers to the land acquisition procedures
17 described in Part 151 of Title 25 of the Code of Federal Regulations
18 (25 C.F.R. 151).

19 (c) “Local government” as used in this article refers to a county,
20 a city, a city and county, and a special district.

21 ~~54262. (a) A local government is encouraged to seek~~
22 ~~opportunities to support California federally recognized tribes’~~
23 ~~co-management of and access to lands that are within the tribe’s~~
24 ~~ancestral land and under the ownership or control of the local~~
25 ~~government.~~

26 ~~(b) A local government is~~

27 ~~54262. (a) State and local governments are encouraged to~~
28 ~~work cooperatively with California federally recognized tribes in~~
29 ~~their efforts to acquire lands in excess of the local government’s~~
30 ~~needs by prioritizing tribal purchase or transfer. fee-to-trust~~
31 ~~applications for purposes of regaining ancestral lands.~~

32 ~~(c) (1) A local government is~~

33 ~~(b) State and local governments are encouraged to work~~
34 ~~cooperatively with support California federally recognized tribes~~
35 ~~in their nongaming fee-to-trust applications.~~

36 ~~(2) A local government shall consider the economic benefits to~~
37 ~~the county from both the project that is the subject of the~~
38 ~~application and the tribe’s contribution to the local jurisdiction in~~
39 ~~the last five years before adopting a position. If~~

1 (c) A local government shall not adopt or enforce a resolution
2 or ordinance that would prevent a federally-recognized tribe from
3 a fair evaluation of a fee-to-trust application based on its merits.

4 (d) (1) If a local government opposes a fee-to-trust application,
5 the local government shall also include the economic benefits to
6 the county from both the project that is the subject of the
7 application and the tribe's contribution to the local jurisdiction
8 in the last five years in any opposition letter or other document
9 submitted to the federal government, either in its response or as
10 an attachment to its response.

11 (3)
12 (2) In order to obtain information on the economic benefits not
13 available to the local government, the local government shall
14 request economic benefit information from the applicant tribe
15 within five days of receiving notice of the fee-to-trust application
16 from the federal government. If the applicant tribe does not respond
17 within five days of the request, the local government shall still
18 include information regarding the economic benefits known to the
19 local government or publicly available at that time in its response
20 to the federal government.

21 ~~(d) A local government is encouraged to adopt preferential~~
22 ~~policies and practices conducive to a California federally~~
23 ~~recognized tribe's efforts to do both of the following:~~

24 ~~(1) Access lands, including zoning land in a way that is~~
25 ~~conducive to access, use, and ownership by federally recognized~~
26 ~~tribes.~~

27 ~~(2) Acquire land in trust.~~

28 SEC. 2. If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.