

ASSEMBLY BILL

No. 2272

Introduced by Assembly Member Dymally

February 19, 2004

An act to add Division 6.5 (commencing with Section 8575) to the Public Resources Code, relating to Native American lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2272, as introduced, Dymally. Native American lands: Tongva Reservation.

Under existing federal law, the Bureau of Indian Affairs within the Department of the Interior is responsible for the administration and management of land held in trust by the United States for American Indians, Indian tribes, and Alaskan Natives. Under existing law, there are 562 federally recognized tribal governments in the United States. California law identifies various Indian tribes and reservation lands, but does not have a formal system of recognizing state Indian tribes, such as that of federal law.

This bill would establish a state recognized Indian reservation for the Gabrielino/Tongva Tribe, a nonfederally recognized Indian tribe, in the City of Compton, in Los Angeles County. The bill would recognize specified land parcels within the City of Compton as the Tongva Reservation and indicate that, upon request of the City of Compton, title to that property be held by the State of California in trust for the benefit of the Gabrielino/Tongva Tribe. The bill would require the Gabrielino/Tongva Tribe to enter into an agreement with the City of Compton to provide for land use controls and revenue distribution to the city and county to make up for revenue lost from tax revenue from real property, as specified.

This bill would also provide that the Tongva Reservation qualifies as Indian lands for purposes of entering into a tribal-state gaming compact. The bill would require the Gabrielino/Tongva Tribe to establish on the Tongva Reservation a cultural center to house artifacts and a funereal area for ancestral remains from burial sites. The bill would also make other related changes.

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

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) Over 300 current tribal members are documented as
4 “Gabrielino Indians” by the United States Department of the
5 Interior, Bureau of Indian Affairs (BIA). Based upon legislation
6 adopted by Congress in 1928 and 1946, the BIA published rolls of
7 California Native Americans to settle land claims. While avoiding
8 recognition of the tribe, the BIA published official rolls in 1928
9 and 1950 and 1972 listing individual “Gabrielino Indians.” Since
10 1972, tribal members have received BIA “blood quantum
11 certificates” as “Gabrielino Indians.”

12 (b) (1) The Gabrielino/Tongva tribe is indigenous to the Los
13 Angeles Basin and its tribal history is well-documented through
14 2,800 archaeological sites, in state historical records and federal
15 archives, and Catholic Church records at the San Gabriel Mission
16 and the San Fernando Mission. In 2000, Loyola Marymount
17 University dedicated a garden to the history of the Tongva in
18 Westchester. The Loyola Marymount University Library exhibits
19 artifacts from two Tongva village sites unearthed during
20 construction of the Leavy campus. Archaeology delineating the
21 historical lands of the Tongva was substantially complete by 1930,
22 when over 100 sites had been excavated. The number of
23 archaeological sites has grown to 2,800 locations and largely
24 confirms the earlier work done.

25 (2) The Tongva occupied villages to the north up to Topanga
26 Canyon in Malibu, where they clashed with the Chumash tribe.
27 Tongva villages extended south to at least the estuary at Newport
28 Beach, where they bordered on land occupied by the
29 state-recognized Juaneno Tribe. Tongva village sites extend inland



1 to the San Bernardino Mountains, where they spawned the
2 younger, independent Cahuilla culture. Both the Morongo and
3 Agua Caliente bands are Cahuilla.

4 (3) The Tongva were enslaved to build the San Gabriel Mission
5 in the City of San Gabriel and the San Fernando Mission in the City
6 of Los Angeles. Other Gabrielino village sites have been
7 uncovered at California State University at Long Beach, the
8 Sheldon Reservoir in Pasadena, and the Los Encinos State
9 Historical Park in Encino.

10 (4) One major Tongva site lies on the southern border of the
11 modern City of Compton. The Amupunga site is a seasonal village
12 on Compton Creek. Compton Creek played an important role in
13 the life of many local Tongva villages for thousands of years.
14 Compton was originally part of Rancho San Pedro, a 1794 Spanish
15 land grant that used the Gabrielino village populations as labor.

16 (c) (1) The BIA rolls for the Gabrielino/Tongva Tribe were
17 published as part of the federal attempt to settle the tribe's land
18 claims without recognizing tribal rights under the 18 "lost
19 treaties" dating from 1851 to 1853.

20 (2) The Mexican-American War was settled by the Treaty of
21 Guadalupe, which ceded California to the United States. Section
22 1 of the protocol attached to the Treaty of Guadalupe required the
23 United States to maintain and protect California Indians, including
24 the Gabrielino/Tongva Tribe, which was recognized as inhabiting
25 the geographic area of the Los Angeles Basin, in the free
26 enjoyment of tribal members' liberty, property and religion.

27 (3) From 1851 to 1853, three federal treaty commissioners
28 appointed by President Fillmore signed the 18 "lost treaties,"
29 setting aside 8.5 million acres in California for Indian reservations
30 in return for the Indians' quitclaim to 75 million acres of California
31 land. After lobbying by California business interests, the United
32 States Senate refused to ratify any of the treaties, instead placing
33 an "injunction of secrecy" on the documents for 50 years. They
34 were discovered in a locked desk drawer in the Senate Archives in
35 1905.

36 (4) The approximately 1.2 million acres promised to the
37 Gabrielino/Tongva Tribe and other Mission Indians included
38 50,000 acres on the San Sebastian Reserve at the Tejon Pass at the
39 edge of Los Angeles County, a temporary reservation to which a
40 number of Gabrielino families had been relocated. This



1 50,000-acre reserve was never officially taken into trust, but
2 instead ended up as the private property of the Superintendent of
3 Indian Affairs, Edward Beale, who incorporated it into his newly
4 named “Tejon Ranch.”

5 (5) Based upon the discovery of the 18 “lost treaties” in 1905,
6 a series of efforts were made to address the issue of the
7 Gabrielino/Tongva Tribe’s lack of a treaty, or at least to
8 compromise its claims to land in Los Angeles County. The
9 California Jurisdiction Act of 1922 authorized the Attorney
10 General of California to represent the Gabrielino/Tongva Tribe,
11 among others, and to bring their land claims before the United
12 States Court of Claims. The Court of Claims, in *Indians of*
13 *California v. United States* (1942) 98 Ct. Cl. 583, recognized the
14 arguments of Earl Warren, the young Attorney General of
15 California, that, “There was a promise made to these tribes and
16 bands of Indians and accepted by them but the treaties were never
17 ratified so the promise was never fulfilled.”

18 (6) Acting to recognize the equitable claims of the
19 Gabrielino/Tongva Tribe and all the Indians of California, the
20 Court of Claims awarded seven cents (\$0.07) an acre as
21 compensation for the 8.5 million acres of land that was never set
22 up as reservations under the 18 “lost treaties.” From this sum the
23 cost of administration of the claims was deducted. In 1850, 94
24 years earlier, no public lands had been purchased for less than one
25 dollar and fifty cents (\$1.50) per acre. The United States Court of
26 Claims awarded no interest for the 94-year period between the
27 signature of the 1851 to 1853 treaties and payment of the moneys
28 in 1944.

29 (7) After World War II reminded the public of the sacrifices of
30 Native American soldiers, and the 1944 payments were viewed as
31 woefully inadequate, a second effort to settle land claims was
32 initiated under new legislation in 1946. The Indian Claims
33 Commission addressed the claims of the Gabrielino/Tongva Tribe
34 in Docket 80. Although the federal government treated the Indians
35 as a tribe, only its individual members were named as plaintiffs.

36 (8) In 1959, the United States Court of Claims entered a final
37 order recognizing the aboriginal title of the Gabrielino/Tongva
38 Tribe and other California tribes to 64 million acres west of the
39 Sierra Nevada Range. The Gabrielino/Tongva Tribe’s title was
40 recognized and six hundred thirty-three dollars (\$633) was paid to



1 each Gabrielino/Tongva tribal member in 1972. As part of the
2 efforts to adjudicate the two land claim payments in 1944 and
3 1972, hundreds of Gabrielino tribal members were recognized as
4 “Gabrielino Indians” on each of the BIA California Indian Rolls
5 of 1928, 1950, and 1972.

6 (9) The lands claim settlement effort of 1946 was incorporated
7 into the “assimilation policy” of the Eisenhower Administration,
8 known as House Concurrent Resolution 108 of 1953. Under this
9 policy, the United States Government decided to pay cash to
10 individual Gabrielino/Tongva members, in lieu of granting a land
11 base to the Gabrielino/Tongva Tribe. This “assimilation policy”
12 also led to the termination of 53 Indian rancherias, some of which
13 were eventually restored by a federal judge in *Hardwick v. United*
14 *States* in 1983. The Eisenhower policy of “assimilation” also lead
15 to the adoption of over 50,000 Native American children into
16 white, often suburban households until the practice was ended by
17 the Indian Child Welfare Act of 1978. The land claims settlement
18 and the “assimilation” of Gabrielino/Tongva Indians was
19 administered by Commissioner of Indian Affairs Dillon S. Meyer,
20 who had previously distinguished himself as chief administrator
21 of the Japanese internment camps in California.

22 (10) This history of de facto recognition, while conspicuously
23 avoiding official recognition, began to crumble in 1994, when the
24 State of California officially recognized the Gabrielino/Tongva
25 Tribe.

26 (d) (1) In 1994, the State of California recognized the Tongva
27 in Assembly Joint Resolution Number 96, Chapter 146 of the
28 Statutes of 1994. The Joint Resolution states that the State of
29 California recognizes the Gabrielinos as the aboriginal tribe of the
30 Los Angeles Basin and takes great pride in recognizing the Indian
31 habitation in the Los Angeles Basin and the continued existence
32 of the Indian community.

33 (2) A state historical site at University High School in West Los
34 Angeles preserves the holy springs where the Portola Expedition,
35 which founded the City of Los Angeles in the late 1700s,
36 replenished their water.

37 (3) California has a savage history against docile Native
38 Americans. The 18 “lost treaties,” enslavement by missionaries
39 and early settlers, the government-sponsored genocides against
40 tribal groups, and the 1851 Indian laws, allowing Indian child theft



1 and slavery, are examples of the savagery exercised, sponsored, or
 2 condoned by the State of California. Even California’s judiciary
 3 participated in an apartheid-like history of racism. For example,
 4 the case of *People v. Hall* (1854) 4 Cal. 399, enforced and
 5 expanded Section 394 of the Civil Practice Act to provide that,
 6 “No Indian or Negro shall be allowed to testify as a witness in any
 7 action in which a White person is a party.” Our Supreme Court
 8 reasoned, “The evident intention of the Act was to throw around
 9 the citizen a protection for life and property, which could only be
 10 secured by removing him above the corrupting influences of
 11 degraded castes.”

12 (4) Past California governmental intrusions all argue for
 13 fairness toward the Gabrielino/Tongva Tribe now. Yet in 2000,
 14 when the Governor of California proclaimed that he was ending
 15 the abusive chapters of the state’s history towards Indian tribes, by
 16 dealing with federally recognized tribal sovereigns, he was only
 17 half right. There are over 50 well-documented Indian tribes that
 18 have not been officially recognized by the federal government and
 19 have received no assistance from the state. The Gabrielino/Tongva
 20 Tribe is one of two state recognized tribes and the best documented
 21 tribe in the state without federal recognition.

22 (5) State recognition accompanied by substantial rights is
 23 appropriate for the same reasons that California has, without
 24 federal approval, undertaken separate pollution-control standards
 25 and other statewide initiatives.

26 (e) Other states have recognized tribes that are not federally
 27 recognized. Their legislation, including the creation of state Indian
 28 reservations for their own state recognized tribes, provides a
 29 model for this legislation. New York, Connecticut, Georgia, North
 30 Carolina and Tennessee all have state recognized tribes and many
 31 have state Indian reservations.

32 SEC. 2. Division 6.5 (commencing with Section 8575) is
 33 added to the Public Resources Code, to read:

34
 35
 36

DIVISION 6.5. TONGVA RESERVATION

37 8575. This division shall be known and may be cited as the
 38 “Dymally Act for the Creation of a State Indian Reservation for
 39 the Gabrielino/Tongva Tribe,” a state recognized Indian tribe.



1 8576. For purposes of this division, “Tribe” means the
2 Gabrielino/Tongva Tribe.

3 8577. (a) An Indian reservation is hereby created by the State
4 of California for the benefit of the Gabrielino/Tongva Tribe, a state
5 recognized tribe.

6 (b) The reservation shall be known as the “Tongva
7 Reservation” and shall lie on the lands delineated in Section 8578.
8 The Tongva Reservation shall qualify as “Indian lands,” as that
9 term is used in subdivision (f) of Section 19 of Article IV of the
10 California Constitution.

11 (c) The Gabrielino/Tongva Tribe is recognized as an Indian
12 tribe by the State of California, and qualifies for a tribal-state
13 gaming compact under subdivision (f) of Section 19 of Article IV
14 of the California Constitution. The tribe is recognized by the State
15 of California as a single entity. No independent bands shall be
16 recognized, and all bands shall be represented in the tribal
17 membership under the tribe’s Constitution, in accordance with
18 Section 8580.

19 8578. (a) The Tongva Reservation includes the following
20 parcels of real property currently owned by the City of Compton:
21 Los Angeles County Tax Assessor Map Parcels 7318-003-910,
22 7318-003-911, 7318-003-913, 7318-003-915, 7318-003-923,
23 7318-003-924, 7318-003-935, 7318-003-936, 7318-003-937,
24 7318-003-938, 7318-003-939, 7318-003-940, 7318-003-941 and
25 7318-003-942, and the adjacent portions of Auto Drive North,
26 Auto Drive South, and Plaza Drive, but not including certain Los
27 Angeles County Flood Control District easements for Compton
28 Creek.

29 (b) Upon request of the City of Compton, authorized by
30 resolution of the City Council, the state shall take title to the
31 Tongva Reservation real property, to be held as follows: “State of
32 California, in trust for the benefit of the Gabrielino/Tongva
33 Tribe.”

34 (c) The Tongva Reservation property shall remain on the
35 property tax rolls of Los Angeles County but may not be subject
36 to taxation, except in accordance with Section 8580.

37 8579. (a) Subject to the restrictions set forth in Section 8580,
38 the Tongva Reservation shall be dedicated to whatever lawful use
39 that the Gabrielino/Tongva Tribe decides.



1 (b) Gaming may not be conducted on the Tongva Reservation
2 without a tribal-state gaming compact, entered into in accordance
3 with subdivision (f) of Section 19 of Article IV of the California
4 Constitution and other provisions of law.

5 8580. (a) The Gabrielino/Tongva Tribe shall establish on the
6 Tongva Reservation a cultural center to house and repatriate
7 architectural artifacts unearthed in over 2,800 archaeological sites,
8 and that may be unearthed in the future, in Los Angeles and Orange
9 counties, and the Santa Catalina Islands.

10 (b) The Tribe shall establish on the Tongva Reservation a
11 funereal area for sepulchers containing ancestral remains
12 unearthed from disturbed burial sites by thousands of construction
13 projects in Los Angeles and Orange counties, and on the Santa
14 Catalina Islands.

15 (c) (1) The Tribe shall recognize as members of the Tribe all
16 individual Gabrielino/Tongva Indians recognized to be members
17 of the Gabrielino/Tongva Tribe in rolls published by the United
18 States Bureau of Indian Affairs in 1928, 1950 or 1972.

19 (2) The Tribe shall set forth a procedure with notice and
20 opportunity to be heard for descendants of roll members to become
21 members of the Tribe.

22 (3) The Tribe shall rewrite its Constitution and hold an election
23 within 12 months of enactment of this division, incorporating its
24 requirements.

25 (d) The Tribe shall enter into an agreement with the City of
26 Compton within 12 months of enactment of this division, to
27 provide for land use controls and revenue distribution to the city
28 and the county. The revenue distribution shall equal or exceed the
29 revenues lost to these entities from the removal of real property
30 parcels from the tax rolls.

