

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2198**

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**Introduced by Assembly Member Cook**

February 18, 2010

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~~An act to amend Section 12012.90 of the Government Code, relating to tribal gaming. An act relating to tribal gaming, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2198, as amended, Cook. Tribal gaming: ~~revenue sharing. local agencies.~~

Existing law creates in the State Treasury ~~the Indian Gaming Revenue Sharing Trust Fund and 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, ~~and authorizes moneys in those funds to be used for certain purposes. Existing law provides for the transfer of moneys from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund under certain circumstances. Existing law provides that, if that transfer results in a surplus, the funds shall remain in the Indian Gaming Revenue Sharing Trust Fund for disbursement in future years, and if necessary, adjustments shall be made to future distributions from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund.~~ 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.*

*This bill would appropriate \$30,000,000 from the Indian Gaming Special Distribution Fund to restore funding deleted from the Budget Act of 2007 for the purpose of providing grants to local government agencies impacted by tribal government gaming under the provisions described above.*

~~This bill would make technical, nonsubstantive changes to these provisions.~~

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

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

- 1     SECTION 1. *The Legislature finds and declares all of the*
- 2     *following:*
- 3     (a) *The Legislature appropriated thirty million two hundred*
- 4     *eighty-three thousand dollars (\$30,283,000) in Item 0855-101-0367*
- 5     *of the Budget Act of 2007 for the purpose of providing grants to*
- 6     *local government agencies to mitigate impacts from tribal*
- 7     *government gaming.*
- 8     (b) *The Governor deleted thirty million dollars (\$30,000,000)*
- 9     *for grants to local government agencies, citing a Bureau of State*
- 10    *Audits report finding in which some local governments were not*
- 11    *using grant moneys for their sole intended purpose.*
- 12    (c) *In 2008, the Legislature passed, and the Governor signed*
- 13    *into law, Assembly Bill 158, enacting several recommendations*
- 14    *from the Bureau of State Audits to help ensure grant funds be spent*
- 15    *for their intended purpose.*
- 16    SEC. 2. *The sum of thirty million dollars (\$30,000,000) is*
- 17    *hereby appropriated from the Indian Gaming Special Distribution*

1 *Fund to restore funding deleted from the Budget Act of 2007 for*  
2 *the purpose of providing grants to local government agencies*  
3 *pursuant to Section 12715 of the Government Code. For the*  
4 *purpose of this specific appropriation, distribution of*  
5 *appropriations to local government agencies impacted by tribal*  
6 *gaming shall be in accordance with the method for determining*  
7 *appropriations into individual tribal casino accounts in effect in*  
8 *the 2006–07 fiscal year, and based on payments made into the*  
9 *Indian Gaming Special Distribution Fund in the 2006–07 fiscal*  
10 *year.*

11 ~~SECTION 1. Section 12012.90 of the Government Code is~~  
12 ~~amended to read:~~

13 ~~12012.90. (a) (1) For each fiscal year commencing with the~~  
14 ~~2002–03 fiscal year to the 2004–05 fiscal year, inclusive, the~~  
15 ~~California Gambling Control Commission shall determine the~~  
16 ~~aggregate amount of shortfalls in payments that occurred in the~~  
17 ~~Indian Gaming Revenue Sharing Trust Fund pursuant to Section~~  
18 ~~4.3.2.1 of the tribal-state gaming compacts ratified and in effect~~  
19 ~~as provided in subdivision (f) of Section 19 of Article IV of the~~  
20 ~~California Constitution as determined below:~~

21 ~~(A) For each eligible recipient Indian tribe that received money~~  
22 ~~for all four quarters of the fiscal year, the difference between one~~  
23 ~~million one hundred thousand dollars (\$1,100,000) and the actual~~  
24 ~~amount paid to each eligible recipient Indian tribe during the fiscal~~  
25 ~~year from the Indian Gaming Revenue Sharing Trust Fund.~~

26 ~~(B) For each eligible recipient Indian tribe that received moneys~~  
27 ~~for less than four quarters of the fiscal year, the difference between~~  
28 ~~two hundred seventy-five thousand dollars (\$275,000) for each~~  
29 ~~quarter in the fiscal year that a recipient Indian tribe was eligible~~  
30 ~~to receive moneys and the actual amount paid to each eligible~~  
31 ~~recipient Indian tribe during the fiscal year from the Indian Gaming~~  
32 ~~Revenue Sharing Trust Fund.~~

33 ~~(2) For purposes of this section, “eligible recipient Indian tribe”~~  
34 ~~means a noncompact tribe, as defined in Section 4.3.2(a)(i) of the~~  
35 ~~tribal-state gaming compacts ratified and in effect as provided in~~  
36 ~~subdivision (f) of Section 19 of Article IV of the California~~  
37 ~~Constitution.~~

38 ~~(b) The California Gambling Control Commission shall provide~~  
39 ~~to the committee in the Senate and Assembly that considers the~~  
40 ~~State Budget an estimate of the amount needed to backfill the~~

1 Indian Gaming Revenue Sharing Trust Fund on or before the date  
2 of the May budget revision for each fiscal year.

3 ~~(e) An eligible recipient Indian tribe may not receive an amount~~  
4 ~~from the backfill appropriated following the estimate made~~  
5 ~~pursuant to subdivision (b) that would give the eligible recipient~~  
6 ~~Indian tribe an aggregate amount in excess of two hundred~~  
7 ~~seventy-five thousand dollars (\$275,000) per eligible quarter. Any~~  
8 ~~funds transferred from the Indian Gaming Special Distribution~~  
9 ~~Fund to the Indian Gaming Revenue Sharing Trust Fund that result~~  
10 ~~in a surplus shall revert back to the Indian Gaming Special~~  
11 ~~Distribution Fund following the authorization of the final payment~~  
12 ~~of the fiscal year.~~

13 ~~(d) Upon a transfer of moneys from the Indian Gaming Special~~  
14 ~~Distribution Fund to the Indian Gaming Revenue Sharing Trust~~  
15 ~~Fund and appropriation from the trust fund, the California~~  
16 ~~Gambling Control Commission shall distribute the moneys without~~  
17 ~~delay to eligible recipient Indian tribes for each quarter that a tribe~~  
18 ~~was eligible to receive a distribution during the fiscal year~~  
19 ~~immediately preceding.~~

20 ~~(e) For each fiscal year commencing with the 2005-06 fiscal~~  
21 ~~year, all of the following shall apply and subdivisions (b) to (d),~~  
22 ~~inclusive, shall not apply:~~

23 ~~(1) On or before the day of the May budget revision for each~~  
24 ~~fiscal year, the California Gambling Control Commission shall~~  
25 ~~determine the anticipated total amount of shortfalls in payment~~  
26 ~~likely to occur in the Indian Gaming Revenue Sharing Trust Fund~~  
27 ~~for the upcoming fiscal year, and shall provide to the committee~~  
28 ~~in the Senate and Assembly that considers the State Budget an~~  
29 ~~estimate of the amount needed to transfer from the Indian Gaming~~  
30 ~~Special Distribution Fund to backfill the Indian Gaming Revenue~~  
31 ~~Sharing Trust Fund for the next fiscal year. The anticipated total~~  
32 ~~amount of shortfalls to be transferred from the Indian Gaming~~  
33 ~~Special Distribution Fund to the Indian Gaming Revenue Sharing~~  
34 ~~Trust Fund shall be determined by the California Gambling Control~~  
35 ~~Commission as follows:~~

36 ~~(A) The anticipated number of eligible recipient tribes that will~~  
37 ~~be eligible to receive payments for the next fiscal year, multiplied~~  
38 ~~by one million one hundred thousand dollars (\$1,100,000), with~~  
39 ~~that product reduced by the amount anticipated to be paid by the~~

1 tribes directly into the Indian Gaming Revenue Sharing Trust Fund  
2 for the fiscal year.

3 (B) This amount shall be based upon actual payments received  
4 into the Indian Gaming Revenue Sharing Trust Fund the previous  
5 fiscal year, with adjustments made due to amendments to existing  
6 tribal-state compacts or newly executed tribal-state compacts with  
7 respect to payments to be made to the Indian Gaming Revenue  
8 Sharing Trust Fund.

9 (2) The Legislature shall transfer from the Indian Gaming  
10 Special Distribution Fund to the Indian Gaming Revenue Sharing  
11 Trust Fund an amount sufficient for each eligible recipient tribe  
12 to receive a total not to exceed two hundred seventy-five thousand  
13 dollars (\$275,000) for each quarter in the upcoming fiscal year an  
14 eligible recipient tribe is eligible to receive moneys, for a total not  
15 to exceed one million, one hundred thousand dollars (\$1,100,000)  
16 for the entire fiscal year. The California Gambling Control  
17 Commission shall make quarterly payments from the Indian  
18 Gaming Revenue Sharing Trust Fund to each eligible recipient  
19 Indian tribe within 45 days of the end of each fiscal quarter.

20 (3) If the transfer of funds from the Indian Gaming Special  
21 Distribution Fund to the Indian Gaming Revenue Sharing Trust  
22 Fund results in a surplus, the funds shall remain in the Indian  
23 Gaming Revenue Sharing Trust Fund for disbursement in future  
24 years, and if necessary, adjustments shall be made to future  
25 distributions from the Indian Gaming Special Distribution Fund  
26 to the Indian Gaming Revenue Sharing Trust Fund.

27 (4) In the event the amount appropriated for the fiscal year is  
28 insufficient to ensure each eligible recipient tribe receives the total  
29 of two hundred seventy-five thousand dollars (\$275,000) for each  
30 fiscal quarter, the Department of Finance, after consultation with  
31 the California Gambling Control Commission, shall submit to the  
32 Legislature a request for a budget augmentation for the current  
33 fiscal year with an explanation as to the reason why the amount  
34 appropriated for the fiscal year was insufficient.

35 (5) At the end of each fiscal quarter, the California Gambling  
36 Control Commission's Indian Gaming Revenue Sharing Trust  
37 Fund report shall include information that identifies each of the  
38 eligible recipient tribes eligible to receive a distribution for that  
39 fiscal quarter, the amount paid into the Indian Gaming Revenue  
40 Sharing Trust Fund by each of the tribes pursuant to the applicable

1 sections of the tribal-state compact, and the amount necessary to  
2 backfill from the Indian Gaming Special Distribution Fund the  
3 shortfall in the Indian Gaming Revenue Sharing Trust Fund in  
4 order for each eligible recipient tribe to receive the total of two  
5 hundred seventy-five thousand dollars (\$275,000) for the fiscal  
6 quarter.

7 (6) ~~Based upon the projected shortfall in the Indian Gaming~~  
8 ~~Revenue Sharing Trust Fund, for the 2005–06 fiscal year, the sum~~  
9 ~~of fifty million dollars (\$50,000,000) is hereby transferred from~~  
10 ~~the Indian Gaming Special Distribution Fund to the Indian Gaming~~  
11 ~~Revenue Sharing Trust Fund and is hereby appropriated from that~~  
12 ~~fund to the California Gambling Control Commission for~~  
13 ~~distribution to each eligible recipient tribe pursuant to this section.~~