

AMENDED IN SENATE AUGUST 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1418

Introduced by ~~Committee on Governmental Organization (Assembly Members Hall (Chair), Nestande (Vice Chair), Blumenfield, Chesbro, Galgiani, Garrick, Gatto, Hill, Jeffries, Ma, V. Manuel Pérez, Silva, and Torres) Assembly Member Hall~~

March 21, 2011

~~An act to amend Section 19805 of the Business and Professions Code, relating to gambling. An act to repeal and add Section 12012.551 of the Government Code, relating to tribal gaming, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1418, as amended, ~~Committee on Governmental Organization Hall. Gambling control: key employees. Tribal gaming: compact ratification.~~

Existing federal law, the Indian Gaming Regulatory Act, provides for the negotiation and execution of tribal-state gaming compacts for the purpose of authorizing certain types of gaming on Indian lands within a state. The California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature. Existing law expressly ratifies a number of tribal-state gaming compacts, and amendments of tribal-state gaming compacts, between the State of California and specified Indian tribes. Existing law ratifies the tribal-state gaming compact entered into between the State of California and the Pinoleville Pomo Nation executed on March 9, 2009.

This bill would repeal those provisions ratifying the tribal-state gaming compact entered into between the State of California and

Pinoleville Pomo Nation, executed on March 9, 2009. The bill would instead ratify the tribal-state gaming compact entered into between the State of California and the Pinoleville Pomo Nation, executed on August 8, 2011.

Existing law, the California Environmental Quality Act (CEQA), requires a lead agency to prepare, or cause to be prepared, and certify completion of, an environmental impact report on a project, as defined, that it proposes to carry out or approve that may have a significant effect on the environment, as defined, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would provide that, in deference to tribal sovereignty, certain actions shall not be deemed projects for purposes of CEQA. By imposing additional duties on a lead agency with regard to the implementation of CEQA requirements, 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 no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

~~The Gambling Control Act provides for the licensure of certain individuals and establishments involved in various gambling activities, and for the regulation of those activities, by the California Gambling Control Commission. Existing law requires certain persons employed in the operation of a gambling enterprise, known as key employees, to apply for and obtain a key employee license. Existing law defines a key employee as any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions that regulate gambling operations, as specified.~~

~~This bill would revise the definition of key employee as any natural person employed in the operation of a gambling enterprise in a supervisory capacity or empowered to make discretionary decisions with regard to gambling operations, delete the term “pit boss” in this context, change the term “shift boss” to “shift manager,” and specifically include surveillance managers or supervisors within the definition.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~^{yes}.

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

1 ~~SECTION 1. Section 12012.551 of the Government Code is~~
2 ~~repealed.~~

3 ~~12012.551. (a) The tribal-state gaming compact entered into~~
4 ~~in accordance with the Indian Gaming Regulatory Act of 1988 (18~~
5 ~~U.S.C. Sees. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)~~
6 ~~between the State of California and the Pinoleville Pomo Nation,~~
7 ~~executed on March 10, 2009, is hereby ratified.~~

8 ~~(b) (1) In deference to tribal sovereignty, none of the following~~
9 ~~shall be deemed a project for purposes of the California~~
10 ~~Environmental Quality Act (Division 13 (commencing with Section~~
11 ~~21000) of the Public Resources Code):~~

12 ~~(A) The execution of an amendment to the tribal-state gaming~~
13 ~~compact ratified by this section.~~

14 ~~(B) The execution of the tribal-state gaming compact ratified~~
15 ~~by this section.~~

16 ~~(C) The execution of an intergovernmental agreement between~~
17 ~~a tribe and a county or city government negotiated pursuant to the~~
18 ~~express authority of, or as expressly referenced in, the tribal-state~~
19 ~~gaming compact ratified by this section.~~

20 ~~(D) The execution of an intergovernmental agreement between~~
21 ~~a tribe and the California Department of Transportation negotiated~~
22 ~~pursuant to the express authority of, or as expressly referenced in,~~
23 ~~the tribal-state gaming compact ratified by this section.~~

24 ~~(E) The on-reservation impacts of compliance with the terms~~
25 ~~of the tribal-state gaming compact ratified by this section.~~

26 ~~(F) The sale of compact assets, as defined in subdivision (a) of~~
27 ~~Section 63048.6, or the creation of the special purpose trust~~
28 ~~established pursuant to Section 63048.65.~~

29 ~~(2) Except as expressly provided herein, nothing in this~~
30 ~~subdivision shall be construed to exempt a city, county, or city~~
31 ~~and county, or the California Department of Transportation, from~~
32 ~~the requirements of the California Environmental Quality Act.~~

33 ~~(c) Revenue contributions made to the state by the tribe pursuant~~
34 ~~to the tribal-state gaming compact ratified by this section shall be~~
35 ~~deposited in the General Fund, except as otherwise provided by~~
36 ~~the compact or by a statute directing that a portion of the revenue~~
37 ~~contributions be deposited in a special fund.~~

1 *SEC. 2. Section 12012.551 is added to the Government Code,*
2 *to read:*

3 *12012.551. (a) The tribal-state gaming compact entered into*
4 *in accordance with the Indian Gaming Regulatory Act of 1988 (18*
5 *U.S.C. Secs. 1166 to 1168, incl., and 25 U.S.C. Sec. 2701 et seq.)*
6 *between the State of California and the Pinoleville Pomo Nation,*
7 *executed on August 8, 2011, is hereby ratified.*

8 *(b) (1) In deference to tribal sovereignty, none of the following*
9 *shall be deemed a project for purposes of the California*
10 *Environmental Quality Act (Division 13 (commencing with Section*
11 *21000) of the Public Resources Code):*

12 *(A) The execution of an amendment to the tribal-state gaming*
13 *compact ratified by this section.*

14 *(B) The execution of the tribal-state gaming compact ratified*
15 *by this section.*

16 *(C) The execution of an intergovernmental agreement between*
17 *a tribe and a county or city government negotiated pursuant to*
18 *the express authority of, or as expressly referenced in, the*
19 *tribal-state gaming compact ratified by this section.*

20 *(D) The execution of an intergovernmental agreement between*
21 *a tribe and the Department of Transportation negotiated pursuant*
22 *to the express authority of, or as expressly referenced in, the*
23 *tribal-state gaming compact ratified by this section.*

24 *(E) The on-reservation impacts of compliance with the terms*
25 *of the tribal-state gaming compact ratified by this section.*

26 *(F) The sale of compact assets, as defined in subdivision (a) of*
27 *Section 63048.6, or the creation of the special purpose trust*
28 *established pursuant to Section 63048.65.*

29 *(2) Except as expressly provided herein, nothing in this*
30 *subdivision shall be construed to exempt a city, county, or city and*
31 *county, or the Department of Transportation, from the requirements*
32 *of the California Environmental Quality Act.*

33 *SEC. 3. No reimbursement is required by this act pursuant to*
34 *Section 6 of Article XIII B of the California Constitution because*
35 *a local agency or school district has the authority to levy service*
36 *charges, fees, or assessments sufficient to pay for the program or*
37 *level of service mandated by this act, within the meaning of Section*
38 *17556 of the Government Code.*

39 *SEC. 4. This act is an urgency statute necessary for the*
40 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*

3 *In order to allow the revenues from this act to be eligible for*
4 *revenue sharing at the earliest possible time to address some of*
5 *the state's pressing budget issues, it is necessary that this act take*
6 *effect immediately.*

7 SECTION 1. ~~Section 19805 of the Business and Professions~~
8 ~~Code is amended to read:~~

9 19805. ~~As used in this chapter, the following definitions shall~~
10 ~~apply:~~

11 (a) ~~“Affiliate” means a person who, directly or indirectly through~~
12 ~~one or more intermediaries, controls, is controlled by, or is under~~
13 ~~common control with, a specified person.~~

14 (b) ~~“Applicant” means any person who has applied for, or is~~
15 ~~about to apply for, a state gambling license, a key employee license,~~
16 ~~a registration, a finding of suitability, a work permit, a~~
17 ~~manufacturer's or distributor's license, or an approval of any act~~
18 ~~or transaction for which the approval or authorization of the~~
19 ~~commission or department is required or permitted under this~~
20 ~~chapter.~~

21 (c) ~~“Banking game” or “banked game” does not include a~~
22 ~~controlled game if the published rules of the game feature a~~
23 ~~player-dealer position and provide that this position must be~~
24 ~~continuously and systematically rotated amongst each of the~~
25 ~~participants during the play of the game, ensure that the~~
26 ~~player-dealer is able to win or lose only a fixed and limited wager~~
27 ~~during the play of the game, and preclude the house, another entity,~~
28 ~~a player, or an observer from maintaining or operating as a bank~~
29 ~~during the course of the game. For purposes of this section, it is~~
30 ~~not the intent of the Legislature to mandate acceptance of the deal~~
31 ~~by every player if the department finds that the rules of the game~~
32 ~~render the maintenance of or operation of a bank impossible by~~
33 ~~other means. The house shall not occupy the player-dealer position.~~

34 (d) ~~“Chief” means the head of the entity within the department~~
35 ~~that is responsible for fulfilling the obligations imposed upon the~~
36 ~~department by this chapter.~~

37 (e) ~~“Commission” means the California Gambling Control~~
38 ~~Commission.~~

39 (f) ~~“Controlled gambling” means to deal, operate, carry on,~~
40 ~~conduct, maintain, or expose for play any controlled game.~~

- 1 ~~(g) “Controlled game” means any controlled game, as defined~~
- 2 ~~by subdivision (c) of Section 337j of the Penal Code.~~
- 3 ~~(h) “Department” means the Department of Justice.~~
- 4 ~~(i) “Director” means any director of a corporation or any person~~
- 5 ~~performing similar functions with respect to any organization.~~
- 6 ~~(j) “Finding of suitability” means a finding that a person meets~~
- 7 ~~the qualification criteria described in subdivisions (a) and (b) of~~
- 8 ~~Section 19857, and that the person would not be disqualified from~~
- 9 ~~holding a state gambling license on any of the grounds specified~~
- 10 ~~in Section 19859.~~
- 11 ~~(k) “Game” and “gambling game” means any controlled game.~~
- 12 ~~(l) “Gambling” means to deal, operate, carry on, conduct,~~
- 13 ~~maintain, or expose for play any controlled game.~~
- 14 ~~(m) “Gambling enterprise” means a natural person or an entity,~~
- 15 ~~whether individual, corporate, or otherwise, that conducts a~~
- 16 ~~gambling operation and that by virtue thereof is required to hold~~
- 17 ~~a state gambling license under this chapter.~~
- 18 ~~(n) “Gambling enterprise employee” means any natural person~~
- 19 ~~employed in the operation of a gambling enterprise, including,~~
- 20 ~~without limitation, dealers, floor personnel, security employees,~~
- 21 ~~countroom personnel, cage personnel, collection personnel,~~
- 22 ~~surveillance personnel, data-processing personnel, appropriate~~
- 23 ~~maintenance personnel, waiters and waitresses, and secretaries, or~~
- 24 ~~any other natural person whose employment duties require or~~
- 25 ~~authorize access to restricted gambling establishment areas.~~
- 26 ~~(o) “Gambling establishment,” “establishment,” or “licensed~~
- 27 ~~premises,” except as otherwise defined in Section 19812, means~~
- 28 ~~one or more rooms where any controlled gambling or activity~~
- 29 ~~directly related thereto occurs.~~
- 30 ~~(p) “Gambling license” or “state gambling license” means any~~
- 31 ~~license issued by the state that authorizes the person named therein~~
- 32 ~~to conduct a gambling operation.~~
- 33 ~~(q) “Gambling operation” means exposing for play one or more~~
- 34 ~~controlled games that are dealt, operated, carried on, conducted,~~
- 35 ~~or maintained for commercial gain.~~
- 36 ~~(r) “Gross revenue” means the total of all compensation received~~
- 37 ~~for conducting any controlled game, and includes interest received~~
- 38 ~~in payment for credit extended by an owner licensee to a patron~~
- 39 ~~for purposes of gambling, except as provided by regulation.~~

1 ~~(s) “Hours of operation” means the period during which a~~
2 ~~gambling establishment is open to conduct the play of controlled~~
3 ~~games within a 24-hour period. In determining whether there has~~
4 ~~been expansion of gambling relating to “hours of operation,” the~~
5 ~~department shall consider the hours in the day when the local~~
6 ~~ordinance permitted the gambling establishment to be open for~~
7 ~~business on January 1, 1996, and compare the current ordinance~~
8 ~~and the hours during which the gambling establishment may be~~
9 ~~open for business. The fact that the ordinance was amended to~~
10 ~~permit gambling on a day, when gambling was not permitted on~~
11 ~~January 1, 1996, shall not be considered in determining whether~~
12 ~~there has been gambling in excess of that permitted by Section~~
13 ~~19961.~~

14 ~~(t) “House” means the gambling enterprise, and any owner,~~
15 ~~shareholder, partner, key employee, or landlord thereof.~~

16 ~~(u) “Independent agent,” except as provided by regulation,~~
17 ~~means any person who does either of the following:~~

18 ~~(1) Collects debt evidenced by a credit instrument.~~

19 ~~(2) Contracts with an owner licensee, or an affiliate thereof, to~~
20 ~~provide services consisting of arranging transportation or lodging~~
21 ~~for guests at a gambling establishment.~~

22 ~~(v) “Initial license” means the license first issued to a person~~
23 ~~authorizing that person to commence the activities authorized by~~
24 ~~that license.~~

25 ~~(w) “Institutional investor” means any retirement fund~~
26 ~~administered by a public agency for the exclusive benefit of federal,~~
27 ~~state, or local public employees, any investment company~~
28 ~~registered under the Investment Company Act of 1940 (15 U.S.C.~~
29 ~~Sec. 80a-1 et seq.), any collective investment trust organized by~~
30 ~~banks under Part Nine of the Rules of the Comptroller of the~~
31 ~~Currency, any closed-end investment trust, any chartered or~~
32 ~~licensed life insurance company or property and casualty insurance~~
33 ~~company, any banking and other chartered or licensed lending~~
34 ~~institution, any investment advisor registered under the Investment~~
35 ~~Advisors Act of 1940 (15 U.S.C. Sec. 80b-1 et seq.) acting in that~~
36 ~~capacity, and other persons as the commission may determine for~~
37 ~~reasons consistent with the policies of this chapter.~~

38 ~~(x) “Key employee” means any natural person employed in the~~
39 ~~operation of a gambling enterprise in a supervisory capacity or~~
40 ~~empowered to make discretionary decisions with regard to~~

- 1 gambling operations, including, without limitation, shift managers,
2 credit executives, cashier operations supervisors, gambling
3 operation managers and assistant managers, managers or
4 supervisors of security employees, surveillance managers or
5 supervisors, or any other natural person designated as a key
6 employee by the department for reasons consistent with the policies
7 of this chapter.
- 8 (y) “Key employee license” means a state license authorizing
9 the holder to be employed as a key employee.
- 10 (z) “License” means a gambling license, key employee license,
11 or any other license issued by the commission pursuant to this
12 chapter or regulations adopted pursuant to this chapter.
- 13 (aa) “Licensed gambling establishment” means the gambling
14 premises encompassed by a state gambling license.
- 15 (ab) “Limited partnership” means a partnership formed by two
16 or more persons having as members one or more general partners
17 and one or more limited partners.
- 18 (ac) “Limited partnership interest” means the right of a general
19 or limited partner to any of the following:
- 20 (1) To receive from a limited partnership any of the following:
- 21 (A) A share of the revenue.
- 22 (B) Any other compensation by way of income.
- 23 (C) A return of any or all of his or her contribution to capital of
24 the limited partnership.
- 25 (2) To exercise any of the rights provided under state law.
- 26 (ad) “Owner licensee” means an owner of a gambling enterprise
27 who holds a state gambling license.
- 28 (ae) “Person,” unless otherwise indicated, includes a natural
29 person, corporation, partnership, limited partnership, trust, joint
30 venture, association, or any other business organization.
- 31 (af) “Player” means a patron of a gambling establishment who
32 participates in a controlled game.
- 33 (ag) “Player-dealer” and “controlled game featuring a
34 player-dealer position” refer to a position in a controlled game, as
35 defined by the approved rules for that game, in which seated player
36 participants are afforded the temporary opportunity to wager
37 against multiple players at the same table, provided that this
38 position is rotated amongst the other seated players in the game.
- 39 (ah) “Publicly traded racing association” means a corporation
40 licensed to conduct horse racing and simulcast wagering pursuant

1 to Chapter 4 (commencing with Section 19400) whose stock is
2 publicly traded.

3 (ai) “Qualified racing association” means a corporation licensed
4 to conduct horse racing and simulcast wagering pursuant to Chapter
5 4 (commencing with Section 19400) that is a wholly owned
6 subsidiary of a corporation whose stock is publicly traded.

7 (aj) “Renewal license” means the license issued to the holder
8 of an initial license that authorizes the license to continue beyond
9 the expiration date of the initial license.

10 (ak) “Work permit” means any card, certificate, or permit issued
11 by the commission, or by a county, city, or city and county, whether
12 denominated as a work permit, registration card, or otherwise,
13 authorizing the holder to be employed as a gambling enterprise
14 employee or to serve as an independent agent. A document issued
15 by any governmental authority for any employment other than
16 gambling is not a valid work permit for the purposes of this chapter.

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