

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2515**

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**Introduced by Assembly Member Hall**

February 24, 2012

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An act to amend Section ~~12714~~ 12715 of the Government Code, relating to *tribal* gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 2515, as amended, Hall. Indian gaming: ~~county tribal casino accounts~~. *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, which is funded according to specified formulas. 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.

~~The bill would make a technical, nonsubstantive change to the above-described provisions.~~

*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.*

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

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

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

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

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

30 (C) Determining the appropriate amount for reimbursement  
31 from the aggregate county tribal account of the demonstrated costs  
32 incurred by the county for administering the grant programs. The  
33 reimbursement for county administrative costs may not exceed 2  
34 percent of the aggregate county tribal account in any given fiscal  
35 year.

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

39 (A) Two representatives from the county, selected by the county  
40 board of supervisors.

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

19 (C) Two representatives selected upon the recommendation of  
20 a majority of the tribes paying into the Indian Gaming Special  
21 Distribution Fund in each county. When an Indian Gaming Local  
22 Community Benefit Committee acts on behalf of a county where  
23 no tribes pay into the Indian Gaming Special Distribution Fund,  
24 the two representatives may be selected upon the recommendation  
25 of the tribes operating casinos in the county.

26 (3) *The Indian Gaming Local Community Benefit Committee*  
27 *shall adopt and approve a Conflict of Interest Code pursuant to*  
28 *Article 3 (commencing with Section 87300) of Chapter 7 of Title*  
29 *9. Any existing Conflict of Interest Code shall be reviewed and*  
30 *amended as necessary to bring it into compliance with the*  
31 *requirements of Article 3 (commencing with Section 87300) of*  
32 *Chapter 7 of Title 9.*

33 (c) Sixty percent of each Individual Tribal Casino Account shall  
34 be available for nexus grants on a yearly basis to cities and counties  
35 impacted by tribes that are paying into the Indian Gaming Special  
36 Distribution Fund, according to the four-part nexus test described  
37 in paragraph (1). Grant awards shall be selected by each county's  
38 Indian Gaming Local Community Benefit Committee and shall  
39 be administered by the county. Grants may be awarded on a

1 multiyear basis, and these multiyear grants shall be accounted for  
2 in the grant process for each year.

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

8 (A) Whether the local government jurisdiction borders the Indian  
9 lands on all sides.

10 (B) Whether the local government jurisdiction partially borders  
11 Indian lands.

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

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

17 (2) Fifty percent of the amount specified in subdivision (c) shall  
18 be awarded in equal proportions to local government jurisdictions  
19 that meet all four of the nexus test criteria in paragraph (1). If no  
20 eligible local government jurisdiction satisfies this requirement,  
21 the amount specified in this paragraph shall be made available for  
22 nexus grants in equal proportions to local government jurisdictions  
23 meeting the requirements of paragraph (3) or (4).

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

31 (4) Twenty percent of the amount specified in subdivision (c)  
32 shall be awarded in equal proportions to local government  
33 jurisdictions that meet two 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 (3).

38 (d) Twenty percent of each Individual Tribal Casino Account  
39 shall be available for discretionary grants to local jurisdictions  
40 impacted by tribes that are paying into the Indian Gaming Special

1 Distribution Fund. These discretionary grants shall be made  
2 available to all local jurisdictions in the county irrespective of any  
3 nexus to impacts from any particular tribal casino, as described in  
4 paragraph (1) of subdivision (c). Grant awards shall be selected  
5 by each county's Indian Gaming Local Community Benefit  
6 Committee and shall be administered by the county. Grants may  
7 be awarded on a multiyear basis, and these multiyear grants shall  
8 be accounted for in the grant process for each year.

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

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

25 (B) Grants shall be subject to the sole sponsorship of the tribe  
26 that pays into the Indian Gaming Special Distribution Fund and  
27 the recommendations of the Indian Gaming Local Community  
28 Benefit Committee for that county.

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

34 (f) (1) For each county that does not have gaming devices  
35 subject to an obligation to make payments to the Indian Gaming  
36 Special Distribution Fund, funds may be released from the county's  
37 County Tribal Casino Account to make grants selected by the  
38 county's Indian Gaming Local Community Benefit Committee  
39 pursuant to the method established by this section to local  
40 jurisdictions impacted by tribal casinos. These grants shall be made

1 available to local jurisdictions in the county irrespective of any  
2 nexus to any particular tribal casino. These grants shall follow the  
3 priorities specified in subdivision (g) and the requirements specified  
4 in subdivision (h).

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

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

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

27 (i) All grants from Individual Tribal Casino Accounts shall be  
28 made only upon the affirmative sponsorship of the tribe paying  
29 into the Indian Gaming Special Distribution Fund from whose  
30 Individual Tribal Casino Account the grant moneys are available  
31 for distribution. Tribal sponsorship shall confirm that the grant  
32 application has a reasonable relationship to a casino impact and  
33 satisfies at least one of the priorities listed in subdivision (g). A  
34 grant may not be made for any purpose that would support or fund,  
35 directly or indirectly, any effort related to the opposition or  
36 challenge to Indian gaming in the state, and, to the extent any  
37 awarded grant is utilized for any prohibited purpose by any local  
38 government, upon notice given to the county by any tribe from  
39 whose Individual Tribal Casino Account the awarded grant went  
40 toward that prohibited use, the grant shall terminate immediately

1 and any moneys not yet used shall again be made available for  
2 qualified nexus grants.

3 (j) A local government jurisdiction that is a recipient of a grant  
4 from an Individual-County Tribal Casino Account or a County  
5 Tribal Casino Account shall provide notice to the public, either  
6 through a slogan, signage, or other mechanism, stating that the  
7 local government project has received funding from the Indian  
8 Gaming Special Distribution Fund and further identifying the  
9 particular Individual Tribal Casino Account from which the grant  
10 derives.

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

17 (2) Funds not allocated from an Individual Tribal Casino  
18 Account by the end of each fiscal year shall revert back to the  
19 Indian Gaming Special Distribution Fund. Moneys allocated for  
20 the 2003-04 fiscal year shall be eligible for expenditure through  
21 December 31, 2004. Moneys allocated for the 2008-09 fiscal year  
22 shall be eligible for expenditure through December 31, 2009.

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

35 *SEC. 2. If the Commission on State Mandates determines that*  
36 *this act contains costs mandated by the state, reimbursement to*  
37 *local agencies and school districts for those costs shall be made*  
38 *pursuant to Part 7 (commencing with Section 17500) of Division*  
39 *4 of Title 2 of the Government Code.*

1 SECTION 1. ~~Section 12714 of the Government Code is~~  
2 ~~amended to read:~~

3 12714. (a) A County Tribal Casino Account is hereby created  
4 in the treasury for each county that contains a tribal casino.

5 (b) The amount to be deposited into each eligible county's  
6 County Tribal Casino Account shall be determined in the following  
7 way:

8 (1) (A) For counties that do not have gaming devices subject  
9 to an obligation to make contributions to the Indian Gaming Special  
10 Distribution Fund, the total amount to be appropriated by the  
11 Legislature for grants to local government agencies impacted by  
12 tribal gaming shall be multiplied by 5 percent.

13 (B) The amount determined pursuant to subparagraph (A) shall  
14 be divided by the aggregate number of gaming devices located in  
15 those counties that do not have gaming devices subject to an  
16 obligation to make contributions to the Indian Gaming Special  
17 Distribution Fund.

18 (C) The amount determined pursuant to subparagraph (B) shall  
19 be multiplied by the number of gaming devices located in each  
20 county for which an appropriation is being calculated that are not  
21 subject to an obligation to make contributions to the Indian Gaming  
22 Special Distribution Fund.

23 (D) The amount determined pursuant to subparagraph (C) shall  
24 be deposited into the County Tribal Casino Account for the county  
25 for which the appropriation was calculated.

26 (2) (A) For counties that have gaming devices subject to an  
27 obligation to make contributions to the Indian Gaming Special  
28 Distribution Fund, the total amount to be appropriated by the  
29 Legislature for grants to local government agencies impacted by  
30 tribal gaming shall be multiplied by 95 percent.

31 (B) The amount determined pursuant to subparagraph (A) shall  
32 be divided by the aggregate number of gaming devices located in  
33 those counties that have gaming devices subject to an obligation  
34 to make contributions to the Indian Gaming Special Distribution  
35 Fund.

36 (C) The amount determined pursuant to subparagraph (B) shall  
37 be multiplied by the number of gaming devices located in each  
38 county for which an appropriation is being calculated that are  
39 subject to an obligation to make contributions to the Indian Gaming  
40 Special Distribution Fund.

- 1     ~~(D)~~ The amount determined pursuant to subparagraph ~~(C)~~ shall
- 2     be deposited into the County Tribal Casino Account for the county
- 3     for which the appropriation was calculated.

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