

AMENDED IN ASSEMBLY APRIL 29, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1267

Introduced by Assembly Member Hall
(Coauthor: Assembly Member Bigelow)
(Coauthor: Senator Gaines)

February 22, 2013

An act to add Sections 12012.58 and 12012.585 to the Government Code, relating to tribal gaming, ~~and making an appropriation therefor therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1267, as amended, Hall. Tribal gaming: compact ratification.

Existing federal law, the Indian Gaming Regulatory Act of 1988, 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, including the Shingle Springs Band of Miwok Indians.

The California Environmental Quality Act (CEQA) requires a lead agency to prepare, or cause to be prepared, and certify the 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 ratify the amendment to the tribal-state gaming compact entered into between the State of California and the Shingle Springs Band of Miwok Indians, executed on November 15, 2012. The bill would provide that, in deference to tribal sovereignty, certain actions may not be deemed projects for purposes of CEQA.

This bill would create the Shingle Springs Band of Miwok Indians Trust Fund in the State Treasury as a special purpose trust fund, to be administered by the California Gambling Control Commission, for the receipt and deposit of revenue payments received by the state from the Shingle Springs Band of Miwok Indians pursuant to the amended tribal-state gaming compact ratified by this measure and any trust fund agreement executed by the state and the tribe pursuant to that tribal-state gaming compact. The bill would continuously appropriate from the trust fund to the commission the amount necessary for specific purposes enumerated in that tribal-state gaming compact and trust fund agreement, including governmental operations of the tribe and reduction of the tribe's existing debt related to its gaming facility. The bill would provide for the termination of the trust fund on January 1, 2016, or another date, as specified. The bill would provide for the transfer of the amount of revenue payments made by the tribe to the state during the period between July 1, 2012, and the date the amended tribal-state gaming compact ratified by this measure becomes effective, from the General Fund to the trust fund as an initial deposit pursuant to the terms of that tribal-state gaming compact and any trust fund agreement.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 12012.58 is added to the Government
- 2 Code, to read:
- 3 12012.58. (a) The amendment to the tribal-state gaming
- 4 compact entered into in accordance with the federal Indian Gaming
- 5 Regulatory Act of 1988 (18 U.S.C. Secs. 1166 to 1168, incl., and
- 6 25 U.S.C. Sec. 2701 et seq.) between the State of California and
- 7 the Shingle Springs Band of Miwok Indians, executed on
- 8 November 15, 2012, is hereby ratified.

1 (b) (1) In deference to tribal sovereignty, none of the following
2 shall be deemed a project for purposes of the California
3 Environmental Quality Act (Division 13 (commencing with Section
4 21000) of the Public Resources Code):

5 (A) The execution of an amendment to the amended tribal-state
6 gaming compact ratified by this section.

7 (B) The execution of the amended tribal-state gaming compact
8 ratified by this section.

9 (C) The execution of an intergovernmental agreement between
10 a tribe and a county or city government negotiated pursuant to the
11 express authority of, or as expressly referenced in, the amended
12 tribal-state gaming compact ratified by this section.

13 (D) The execution of an intergovernmental agreement between
14 a tribe and the Department of Transportation negotiated pursuant
15 to the express authority of, or as expressly referenced in, the
16 amended tribal-state gaming compact ratified by this section.

17 (E) The on-reservation impacts of compliance with the terms
18 of the amended tribal-state gaming compact ratified by this section.

19 (F) The sale of compact assets, as defined in subdivision (a) of
20 Section 63048.6, or the creation of the special purpose trust
21 established pursuant to Section 63048.65.

22 (2) Except as expressly provided in this paragraph, this
23 subdivision does not exempt a city, county, or city and county, or
24 the Department of Transportation, from the requirements of the
25 California Environmental Quality Act.

26 SEC. 2. Section 12012.585 is added to the Government Code,
27 to read:

28 12012.585. (a) The Shingle Springs Band of Miwok Indians
29 Trust Fund is hereby created in the State Treasury as a special
30 purpose trust fund for the receipt and deposit of revenue payments
31 received by the state from the Shingle Springs Band of Miwok
32 Indians pursuant to the terms of the amended tribal-state gaming
33 compact ratified pursuant to Section 12012.58 and any trust fund
34 agreement executed by the state and the tribe pursuant to that
35 tribal-state gaming compact. The trust fund shall be administered
36 by the California Gambling Control Commission.

37 (b) Notwithstanding Section 13340, there is continuously
38 appropriated without regard to fiscal years, from the trust fund to
39 the California Gambling Control Commission, the amount
40 necessary for the specific purposes enumerated in the tribal-state

1 gaming compact ratified pursuant to Section 12012.58 and any
2 trust fund agreement executed by the state and the tribe pursuant
3 to that tribal-state gaming compact, including, but not limited to,
4 both of the following purposes:

5 (1) Governmental operations of the tribe, including, but not
6 limited to, tribal administration, distributions, health care,
7 education, and economic development.

8 (2) Reduction of the tribe’s existing debt related to its gaming
9 facility, including, but not limited to, the payment of reasonable
10 costs paid by the tribe or gaming operation in connection with
11 refinancing or restructuring its debt load and any related litigation
12 or administrative proceedings, including attorney’s fees.

13 (c) *Funds expended from the trust fund shall be used exclusively*
14 *for the purposes enumerated in the amended tribal-state gaming*
15 *compact ratified pursuant to Section 12012.58 and any trust fund*
16 *agreement executed by the state and the tribe pursuant to that*
17 *tribal-state gaming compact.*

18 ~~(e)~~

19 (d) Funds deposited into the trust fund shall accrue interest at
20 the rate earned by moneys invested in the Pooled Money
21 Investment Account from the date of deposit until appropriated
22 pursuant to subdivision (b).

23 ~~(d)~~

24 (e) The trust fund shall terminate on January 1, 2016, or a later
25 date if agreed to by the parties by written agreement. The state and
26 the tribe may terminate the trust fund by written agreement at any
27 earlier date if the parties determine that it has served its intended
28 purpose.

29 ~~(e)~~

30 (f) Any funds remaining in the trust fund at the time it is
31 terminated shall revert to the tribe.

32 (g) *The California Gambling Control Commission has no duties,*
33 *responsibilities, or obligations related to the trust fund other than*
34 *those expressly set forth in the amended tribal-state gaming*
35 *compact ratified pursuant to Section 12012.58 and any trust fund*
36 *agreement executed by the state and the tribe pursuant to that*
37 *tribal-state gaming compact. Consistent with its duties pursuant*
38 *to the Indian Gaming Revenue Sharing Trust Fund or any other*
39 *similar fund, the California Gambling Control Commission is not*
40 *a trustee subject to the duties and liabilities contained in the*

1 *Probate Code, similar federal or state statutes, rules, or*
2 *regulations, or under federal or state common law or equitable*
3 *principles.*

4 SEC. 3. The amount of the revenue sharing payments made
5 by the Shingle Springs Band of Miwok Indians to the state pursuant
6 to Section 4.3.1 of the amended tribal-state gaming compact
7 between the tribe and the state ratified pursuant to Section 12012.53
8 of the Government Code, during the period between July 1, 2012,
9 and the date the amended tribal-state gaming compact between
10 the tribe and the state ratified pursuant to Section 12012.58 of the
11 Government Code becomes effective, inclusive, is transferred from
12 the General Fund to the Shingle Springs Band of Miwok Indians
13 Trust Fund, established pursuant to Section 12012.585 of the
14 Government Code, as an initial deposit pursuant to the terms of
15 the amended tribal-state gaming compact ratified pursuant to
16 Section 12012.58 of the Government Code and any trust fund
17 agreement executed by the state and the tribe pursuant to that
18 tribal-state gaming compact.

19 SEC. 4. *This act is an urgency statute necessary for the*
20 *immediate preservation of the public peace, health, or safety within*
21 *the meaning of Article IV of the Constitution and shall go into*
22 *immediate effect. The facts constituting the necessity are:*

23 *In order to enhance the economic development, long-term*
24 *stability, and self-sufficiency of the Shingle Springs Band of Miwok*
25 *Indians and to protect the interests of the tribe and its members,*
26 *the surrounding community, and the California public, it is*
27 *necessary for this act to take effect immediately.*

28

29

30 **CORRECTIONS:**

31 **Heading—Page 1.**

32

O