

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2102**

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**Introduced by Assembly Member Roger Hernández**

February 17, 2016

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An act to amend Section 12715 of the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 2102, as amended, Roger Hernández. Tribal-gaming. gaming: Indian Gaming Local Community Benefit Committee.

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, in consultation with the California Gambling Control Commission, 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

*authorizes funds in these accounts to be released to make grants to local agencies impacted by tribal casinos, as specified. 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 those casino accounts. Among other things, the committee is responsible for establishing all application policies and procedures for grants from the casino accounts.*

*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.*

~~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 ratifies a number of tribal-state gaming compacts between the State of California and specified Indian tribes.~~

~~This bill would state the intent of the Legislature to enact legislation related to tribal gaming in California.~~

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

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

27     (A) Establishing all application policies and procedures for  
28 grants from the Individual Tribal Casino Account or County Tribal  
29 Casino Account. Each grant application shall clearly show how  
30 the grant will mitigate the impact of the casino on the grant  
31 applicant.

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

34     (C) Determining the appropriate amount for reimbursement  
35 from the aggregate county tribal account of the demonstrated costs  
36 incurred by the county for administering the grant programs. The  
37 reimbursement for county administrative costs may not exceed 2

1 percent of the aggregate county tribal account in any given fiscal  
2 year.

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

6 (A) Two representatives from the county, selected by the county  
7 board of supervisors.

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

26 (C) Two representatives selected upon the recommendation of  
27 a majority of the tribes paying into the Indian Gaming Special  
28 Distribution Fund in each county. When an Indian Gaming Local  
29 Community Benefit Committee acts on behalf of a county ~~where~~  
30 *in which* no tribes pay into the Indian Gaming Special Distribution  
31 Fund, the two representatives may be selected upon the  
32 recommendation of the tribes operating casinos in the county.

33 (3) *The Indian Gaming Local Community Benefit Committee*  
34 *shall adopt and approve a Conflict of Interest Code pursuant to*  
35 *Article 3 (commencing with Section 87300) of Chapter 7 of Title*  
36 *9. Any existing Conflict of Interest Code shall be reviewed and*  
37 *amended as necessary to bring it into compliance with the*  
38 *requirements of Article 3 (commencing with Section 87300) of*  
39 *Chapter 7 of Title 9.*

1 (c) Sixty percent of each Individual Tribal Casino Account shall  
2 be available for nexus grants on a yearly basis to cities and counties  
3 impacted by tribes that are paying into the Indian Gaming Special  
4 Distribution Fund, according to the four-part nexus test described  
5 in paragraph (1). Grant awards shall be selected by each county's  
6 Indian Gaming Local Community Benefit Committee and shall  
7 be administered by the county. Grants may be awarded on a  
8 multiyear basis, and these multiyear grants shall be accounted for  
9 in the grant process for each year.

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

15 (A) Whether the local government jurisdiction borders the Indian  
16 lands on all sides.

17 (B) Whether the local government jurisdiction partially borders  
18 Indian lands.

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

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

24 (2) Fifty percent of the amount specified in *this* subdivision ~~(e)~~  
25 shall be awarded in equal proportions to local government  
26 jurisdictions that meet all four 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 (3) or (4).

31 (3) Thirty percent of the amount specified in *this* subdivision  
32 ~~(e)~~ shall be awarded in equal proportions to local government  
33 jurisdictions that meet three 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 (4).

38 (4) Twenty percent of the amount specified in *this* subdivision  
39 ~~(e)~~ shall be awarded in equal proportions to local government  
40 jurisdictions that meet two of the nexus test criteria in paragraph

1 (1). If no eligible local government jurisdiction satisfies this  
2 requirement, the amount specified in this paragraph shall be made  
3 available for nexus grants in equal proportions to local government  
4 jurisdictions meeting the requirements of paragraph (2) or (3).

5 (d) Twenty percent of each Individual Tribal Casino Account  
6 shall be available for discretionary grants to local jurisdictions  
7 impacted by tribes that are paying into the Indian Gaming Special  
8 Distribution Fund. These discretionary grants shall be made  
9 available to all local jurisdictions in the county irrespective of any  
10 nexus to impacts from any particular tribal casino, as described in  
11 paragraph (1) of subdivision (c). Grant awards shall be selected  
12 by each county's Indian Gaming Local Community Benefit  
13 Committee and shall be administered by the county. Grants may  
14 be awarded on a multiyear basis, and these multiyear grants shall  
15 be accounted for in the grant process for each year.

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

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

32 (B) Grants shall be subject to the sole sponsorship of the tribe  
33 that pays into the Indian Gaming Special Distribution Fund and  
34 the recommendations of the Indian Gaming Local Community  
35 Benefit Committee for that county.

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

1 (f) (1) For each county that does not have gaming devices  
2 subject to an obligation to make payments to the Indian Gaming  
3 Special Distribution Fund, funds may be released from the county's  
4 County Tribal Casino Account to make grants selected by the  
5 county's Indian Gaming Local Community Benefit Committee  
6 pursuant to the method established by this section to local  
7 jurisdictions impacted by tribal casinos. These grants shall be made  
8 available to local jurisdictions in the county irrespective of any  
9 nexus to any particular tribal casino. These grants shall follow the  
10 priorities specified in subdivision (g) and the requirements specified  
11 in subdivision (h).

12 (2) Funds not allocated from a ~~county tribal casino account~~  
13 *County Tribal Casino Account* by the end of each fiscal year shall  
14 revert back to the Indian Gaming Special Distribution Fund.  
15 ~~Moneys allocated for the 2003-04 fiscal year shall be eligible for~~  
16 ~~expenditure through December 31, 2004.~~

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

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

35 (i) All grants from Individual Tribal Casino Accounts shall be  
36 made only upon the affirmative sponsorship of the tribe paying  
37 into the Indian Gaming Special Distribution Fund from whose  
38 Individual Tribal Casino Account the grant moneys are available  
39 for distribution. Tribal sponsorship shall confirm that the grant  
40 application has a reasonable relationship to a casino impact and

1 satisfies at least one of the priorities listed in subdivision (g). A  
2 grant may not be made for any purpose that would support or fund,  
3 directly or indirectly, any effort related to the opposition or  
4 challenge to Indian gaming in the state, and, to the extent any  
5 awarded grant is utilized for any prohibited purpose by any local  
6 government, upon notice given to the county by any tribe from  
7 whose Individual Tribal Casino Account the awarded grant went  
8 toward that prohibited use, the grant shall terminate immediately  
9 and any moneys not yet used shall again be made available for  
10 qualified nexus grants.

11 (j) A local government jurisdiction that is a recipient of a grant  
12 from an Individual Tribal Casino Account or a County Tribal  
13 Casino Account shall provide notice to the public, either through  
14 a slogan, signage, or other mechanism, stating that the local  
15 government project has received funding from the Indian Gaming  
16 Special Distribution Fund and further identifying the particular  
17 Individual Tribal Casino Account from which the grant derives.

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

24 (2) Funds not allocated from an Individual Tribal Casino  
25 Account by the end of each fiscal year shall revert back to the  
26 Indian Gaming Special Distribution Fund. ~~Moneys allocated for  
27 the 2003-04 fiscal year shall be eligible for expenditure through  
28 December 31, 2004. Moneys allocated for the 2008-09 fiscal year  
29 shall be eligible for expenditure through December 31, 2009.~~

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

1 account have been in compliance with the requirements of this  
2 section.

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

8 ~~SECTION 1. It is the intent of the Legislature to enact~~  
9 ~~legislation related to tribal gaming in California.~~

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