

ASSEMBLY BILL

No. 2914

Introduced by Committee on Governmental Organization (Assembly Members Gray (Chair), Bigelow (Vice Chair), Alejo, Bonta, Campos, Cooley, Cooper, Daly, Gallagher, Gipson, Jones-Sawyer, Levine, Linder, Maienschein, Salas, and Wilk)

March 17, 2016

An act to amend Sections 12012.75 and 12012.90 of the Government Code, relating to gaming.

LEGISLATIVE COUNSEL'S DIGEST

AB 2914, as introduced, Committee on Governmental Organization. Gaming: Indian Gaming Revenue Sharing Trust Fund.

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.

Existing law establishes the Indian Gaming Revenue Sharing Trust Fund within the State Treasury for the receipt and deposit of moneys derived from gaming device license fees that are received from tribes pursuant to the terms of tribal-state gaming compacts for the purpose of making distributions to noncompact tribes. Existing law provides that moneys in that fund are available to the California Gambling Control Commission, upon appropriation by the Legislature, for the

purpose of making those distributions in accordance with plans specified in tribal-state gaming compacts.

This bill would clarify that the purpose of the fund is for making distributions to eligible recipient Indian tribes.

Existing law requires the California Gambling Control Commission to, on or before the day of the May budget revision for each fiscal year, determine the anticipated total amount of shortfalls in payment likely to occur in the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year, and to provide to the committee in the Senate and Assembly that considers the State Budget an estimate of the amount needed to transfer from the Indian Gaming Special Distribution Fund to backfill the Indian Gaming Revenue Sharing Trust Fund for the next fiscal year. Existing law requires, at the end of each fiscal quarter, the commission's Indian Gaming Revenue Sharing Trust Fund report to include specified information, including, among other things, the amount paid into the Indian Gaming Revenue Sharing Trust Fund by each of the tribes pursuant to the applicable sections of the tribal-state gaming compact.

This bill would provide that tribes contributing to the Indian Gaming Revenue Sharing Trust Fund on a net win or gross gaming revenue basis may be aggregated in the quarterly report described above.

Existing law requires the California Gambling Control Commission to determine the amount of money needed to be transferred from the Indian Gaming Special Distribution Fund to the Indian Gaming Revenue Sharing Trust Fund to ensure that each eligible recipient Indian tribe receives a specified amount of the funds. Existing law defines "eligible recipient tribe" for those purposes to mean a noncompact tribe, as defined in the tribal-state gaming compacts ratified and in effect, as specified. Those compacts define "noncompact tribe" to mean a federally recognized tribe that operates fewer than 350 gaming devices.

This bill would clarify that "eligible recipient Indian tribe" means a noncompact, nongaming, or limited-gaming tribe, as defined in the tribal-state gaming compacts ratified and in effect, as provided. The bill would delete other related, obsolete provisions.

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

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

- 1 SECTION 1. Section 12012.75 of the Government Code is
- 2 amended to read:

1 12012.75. There is hereby created in the State Treasury a
2 special fund called the “Indian Gaming Revenue Sharing Trust
3 Fund” for the receipt and deposit of moneys ~~derived~~ *received by*
4 *the state* from ~~gaming device license fees that are paid into the~~
5 ~~fund~~ *Indian tribes* pursuant to the terms of tribal-state gaming
6 compacts for the purpose of making distributions to ~~nonecompact~~
7 *eligible recipient Indian* tribes. Moneys in the Indian Gaming
8 Revenue Sharing Trust Fund shall be available to the California
9 Gambling Control Commission, upon appropriation by the
10 Legislature, for the purpose of making distributions to ~~nonecompact~~
11 *eligible recipient Indian* tribes, in accordance with distribution
12 plans specified in tribal-state gaming compacts.

13 SEC. 2. Section 12012.90 of the Government Code is amended
14 to read:

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

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

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

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

1 ~~(b) The California Gambling Control Commission shall provide~~
 2 ~~to the committee in the Senate and Assembly that considers the~~
 3 ~~State Budget an estimate of the amount needed to backfill the~~
 4 ~~Indian Gaming Revenue Sharing Trust Fund on or before the date~~
 5 ~~of the May budget revision for each fiscal year.~~

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

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

23 ~~(e)~~
 24 ~~12012.90. For each fiscal year commencing with the 2005-06~~
 25 ~~2016-17 fiscal year, all of the following shall apply and~~
 26 ~~subdivisions (b) to (d), inclusive, shall not apply: apply:~~

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

1 ~~(A)~~

2 (1) The anticipated number of eligible recipient *Indian* tribes
3 that will be eligible to receive payments for the next fiscal year,
4 multiplied by one million one hundred thousand dollars
5 (\$1,100,000), with that product reduced by the amount anticipated
6 to be paid by the tribes directly into the Indian Gaming Revenue
7 Sharing Trust Fund for the *next* fiscal year.

8 (2) *For purposes of this section and Section 12012.75, “eligible*
9 *recipient Indian tribe” means a noncompact, nongaming, or*
10 *limited-gaming tribe, as defined in the tribal-state gaming*
11 *compacts ratified and in effect as provided in subdivision (f) of*
12 *Section 19 of Article IV of the California Constitution.*

13 ~~(B)~~

14 (3) This amount shall be based upon actual payments received
15 into the Indian Gaming Revenue Sharing Trust Fund the previous
16 fiscal year, with adjustments made due to amendments to existing
17 tribal-state *gaming* compacts or newly executed tribal-state *gaming*
18 compacts with respect to payments to be made to the Indian
19 Gaming Revenue Sharing Trust Fund.

20 ~~(2)~~

21 (b) The Legislature shall transfer from the Indian Gaming
22 Special Distribution Fund to the Indian Gaming Revenue Sharing
23 Trust Fund an amount sufficient for each eligible recipient *Indian*
24 tribe to receive a total not to exceed two hundred seventy-five
25 thousand dollars (\$275,000) for each quarter in the ~~upcoming~~ *next*
26 fiscal year *that* an eligible recipient *Indian* tribe is eligible to
27 receive moneys, for a total not to exceed one million one hundred
28 thousand dollars (\$1,100,000) for the entire fiscal year. The
29 California Gambling Control Commission shall make quarterly
30 payments from the Indian Gaming Revenue Sharing Trust Fund
31 to each eligible recipient Indian tribe within 45 days of the end of
32 each fiscal quarter.

33 ~~(3)~~

34 (c) If the transfer of funds from the Indian Gaming Special
35 Distribution Fund to the Indian Gaming Revenue Sharing Trust
36 Fund results in a surplus, the funds shall remain in the Indian
37 Gaming Revenue Sharing Trust Fund for disbursement in future
38 years, and if necessary, adjustments shall be made to future
39 distributions from the Indian Gaming Special Distribution Fund
40 to the Revenue Sharing Trust Fund.

1 ~~(4)~~

2 (d) In the event the amount appropriated for the fiscal year is
3 insufficient to ensure each eligible recipient *Indian* tribe receives
4 the total of two hundred seventy-five thousand dollars (\$275,000)
5 for each fiscal quarter, the Department of Finance, after
6 consultation with the California Gambling Control Commission,
7 shall submit to the Legislature a request for a budget augmentation
8 for the current fiscal year with an explanation as to the reason why
9 the amount appropriated for the fiscal year was insufficient.

10 ~~(5)~~

11 (e) At the end of each fiscal quarter, the California Gambling
12 Control Commission’s Indian Gaming Revenue Sharing Trust
13 Fund report shall include information that identifies each of the
14 eligible recipient *Indian* tribes ~~eligible to receive a distribution~~ for
15 that fiscal quarter, the amount paid into the Indian Gaming Revenue
16 Sharing Trust Fund by each of the tribes pursuant to the applicable
17 sections of the tribal-state *gaming* compact, *provided that tribes*
18 *contributing on a net win or gross gaming revenue basis may be*
19 *aggregated in the report*, and the amount necessary to backfill
20 from the Indian Gaming Special Distribution Fund the shortfall in
21 the Indian Gaming Revenue Sharing Trust Fund in order for each
22 eligible recipient *Indian* tribe to receive the total of two hundred
23 seventy-five thousand dollars (\$275,000) for the fiscal quarter.