

**Introduced by Senator Hall**February 24, 2015

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

## LEGISLATIVE COUNSEL'S DIGEST

SB 374, as introduced, Hall. Tribal gaming: 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. 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.

Existing law requires funds not allocated from a County Tribal Casino Account or an Individual Tribal Casino Account for the grants by the end of each fiscal year to revert back to the Indian Gaming Special Distribution Fund, except for moneys allocated for specified fiscal years, which are required to be eligible for expenditure through the calendar year.

This bill would delete the obsolete provisions relating to allocations made in those specified fiscal years.

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 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

1 subdivision (h). This committee has the following additional  
2 responsibilities:

3 (A) Establishing all application policies and procedures for  
4 grants from the Individual Tribal Casino Account or County Tribal  
5 Casino Account. Each grant application shall clearly show how  
6 the grant will mitigate the impact of the casino on the grant  
7 applicant.

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

10 (C) Determining the appropriate amount for reimbursement  
11 from the aggregate county tribal account of the demonstrated costs  
12 incurred by the county for administering the grant programs. The  
13 reimbursement for county administrative costs may not exceed 2  
14 percent of the aggregate county tribal account in any given fiscal  
15 year.

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

19 (A) Two representatives from the county, selected by the county  
20 board of supervisors.

21 (B) Three elected representatives from cities located within four  
22 miles of a tribal casino in the county, selected by the county board  
23 of supervisors. In the event that there are no cities located within  
24 four miles of a tribal casino in the county, other local  
25 representatives may be selected upon mutual agreement by the  
26 county board of supervisors and a majority of the tribes paying  
27 into the Indian Gaming Special Distribution Fund in the county.  
28 When there are no cities within four miles of a tribal casino in the  
29 county, and when the Indian Gaming Local Community Benefit  
30 Committee acts on behalf of a county where no tribes pay into the  
31 Indian Gaming Special Distribution Fund, other local  
32 representatives may be selected upon mutual agreement by the  
33 county board of supervisors and a majority of the tribes operating  
34 casinos in the county. However, if only one city is within four  
35 miles of a tribal casino and that same casino is located entirely  
36 within the unincorporated area of that particular county, only one  
37 elected representative from that city shall be included on the Indian  
38 Gaming Local Community Benefit Committee.

39 (C) Two representatives selected upon the recommendation of  
40 a majority of the tribes paying into the Indian Gaming Special

1 Distribution Fund in each county. When an Indian Gaming Local  
2 Community Benefit Committee acts on behalf of a county ~~where~~  
3 *in which* no tribes pay into the Indian Gaming Special Distribution  
4 Fund, the two representatives may be selected upon the  
5 recommendation of the tribes operating casinos in the county.

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

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

20 (A) Whether the local government jurisdiction borders the Indian  
21 lands on all sides.

22 (B) Whether the local government jurisdiction partially borders  
23 Indian lands.

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

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

29 (2) Fifty percent of the amount specified in *this* subdivision ~~(e)~~  
30 shall be awarded in equal proportions to local government  
31 jurisdictions that meet all four of the nexus test criteria in paragraph  
32 (1). If no eligible local government jurisdiction satisfies this  
33 requirement, the amount specified in this paragraph shall be made  
34 available for nexus grants in equal proportions to local government  
35 jurisdictions meeting the requirements of paragraph (3) or (4).

36 (3) Thirty percent of the amount specified in *this* subdivision  
37 ~~(e)~~ shall be awarded in equal proportions to local government  
38 jurisdictions that meet three of the nexus test criteria in paragraph  
39 (1). If no eligible local government jurisdiction satisfies this  
40 requirement, the amount specified in this paragraph shall be made

1 available for nexus grants in equal proportions to local government  
2 jurisdictions meeting the requirements of paragraph (2) or (4).

3 (4) Twenty percent of the amount specified in *this* subdivision  
4 ~~(e)~~ shall be awarded in equal proportions to local government  
5 jurisdictions that meet two of the nexus test criteria in paragraph  
6 (1). If no eligible local government jurisdiction satisfies this  
7 requirement, the amount specified in this paragraph shall be made  
8 available for nexus grants in equal proportions to local government  
9 jurisdictions meeting the requirements of paragraph (2) or (3).

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

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

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

37 (B) Grants shall be subject to the sole sponsorship of the tribe  
38 that pays into the Indian Gaming Special Distribution Fund and  
39 the recommendations of the Indian Gaming Local Community  
40 Benefit Committee for that county.

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

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

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

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

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

1 (i) All grants from Individual Tribal Casino Accounts shall be  
2 made only upon the affirmative sponsorship of the tribe paying  
3 into the Indian Gaming Special Distribution Fund from whose  
4 Individual Tribal Casino Account the grant moneys are available  
5 for distribution. Tribal sponsorship shall confirm that the grant  
6 application has a reasonable relationship to a casino impact and  
7 satisfies at least one of the priorities listed in subdivision (g). A  
8 grant may not be made for any purpose that would support or fund,  
9 directly or indirectly, any effort related to the opposition or  
10 challenge to Indian gaming in the state, and, to the extent any  
11 awarded grant is utilized for any prohibited purpose by any local  
12 government, upon notice given to the county by any tribe from  
13 whose Individual Tribal Casino Account the awarded grant went  
14 toward that prohibited use, the grant shall terminate immediately  
15 and any moneys not yet used shall again be made available for  
16 qualified nexus grants.

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

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

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

36 (l) Notwithstanding any other law, a local government  
37 jurisdiction that receives a grant from an Individual Tribal Casino  
38 Account shall deposit all funds received in an interest-bearing  
39 account and use the interest from those funds only for the purpose  
40 of mitigating an impact from a casino. If any portion of the funds

1 in the account is used for any other purpose, the remaining portion  
2 shall revert to the Indian Gaming Special Distribution Fund. As a  
3 condition of receiving further funds under this section, a local  
4 government jurisdiction, upon request of the county, shall  
5 demonstrate to the county that all expenditures made from the  
6 account have been in compliance with the requirements of this  
7 section.

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