

ASSEMBLY BILL

No. 707

Introduced by Assembly Member Nestande

February 26, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

AB 707, as introduced, Nestande. Tribal gaming: grants to local agencies.

Existing law provides for the distribution of moneys in the Indian Gaming Special Distribution Fund for grants to local government agencies impacted by tribal gaming. Existing law provides for the establishment of an Individual Tribal Casino Account for each tribe that operates a casino within a county that has gaming devices that are subject to an obligation to contribute to the Indian Gaming Special Distribution Fund. Existing law requires that 60% of each Individual Tribal Casino Account be available for nexus grants on a yearly basis to cities and counties impacted by tribes that are paying into the Indian Gaming Special Distribution Fund, according to a 4-part nexus test, as specified.

This bill would make a technical, nonsubstantive change to these provisions.

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

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

SECTION 1. Section 12715 of the Government Code is amended to read:

12715. (a) The Controller, acting in consultation with the California Gambling Control Commission, shall 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 for each tribe that operates a casino within the county. These accounts shall be known as Individual Tribal Casino Accounts, and funds may be released from these accounts to make grants selected by an Indian Gaming Local Community Benefit Committee pursuant to the method established by this section to local jurisdictions impacted by tribal casinos. Each Individual Tribal Casino Account shall be funded in proportion to the amount that each individual tribe paid in the prior fiscal year to the Indian Gaming Special Distribution Fund.

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

(A) Establishing all application policies and procedures for grants from the Individual Tribal Casino Account or County Tribal Casino Account.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Twenty percent of each Individual Tribal Casino Account shall be available for discretionary grants to local jurisdictions impacted by tribes that are paying into the Indian Gaming Special Distribution Fund. These discretionary grants shall be made available to all local jurisdictions in the county irrespective of any

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

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

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

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

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

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

1 priorities specified in subdivision (g) and the requirements specified
2 in subdivision (h).

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

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

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

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

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

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

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

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