

Indian Gaming Special Distribution Fund

CALIFORNIA GOVERNMENT CODE

SECTION 12710-12718

As amended October 11, 2009

12710. This chapter establishes the method of calculating the distribution of appropriations from the Indian Gaming Special Distribution Fund for grants to local **government** agencies impacted by tribal gaming.

Intent of the Legislature

12711. (a) It is the intent of the Legislature to establish a fair and proportionate system to award grants from the Indian Gaming Special Distribution Fund for the support of local **government** agencies impacted by tribal gaming. It is also the intent of the Legislature that priority for funding shall be given to local **government** agencies impacted by the tribal casinos that contribute to the Indian Gaming Special Distribution Fund.

(b) It is the intent of the Legislature that in the event that any compact between any tribe and the state takes effect on or after the effective date of this chapter, or that any compact between any tribe and the state that took effect on or before May 16, 2000, is renegotiated and reexecuted at any time after its initial effective date, money provided to the state by a tribe pursuant to the terms of these compacts shall be applied on a pro rata basis to the state costs for the regulation of gaming and for problem gambling prevention programs in the Office of Problem and Pathological Gambling within the State Department of Alcohol and Drug Programs.

(c) It is the intent of the Legislature that if any compact between any tribe and the state takes effect on or after the effective date of this chapter, or if any compact between any tribe and the state that took effect on or before May 16, 2000, is renegotiated and reexecuted at any time after its initial effective date, any revenue sharing provisions of that compact that requires distributions to nongaming or noncompact tribes shall result in a decrease in the amount that the Legislature appropriates pursuant to this chapter.

Indian Gaming Special Distribution Fund

Definition of Terms

12712. As used in this chapter:

(a) "County Tribal Casino Account" means an account consisting of all moneys paid by tribes of that county into the Indian Gaming Special Distribution Fund after deduction of the amounts appropriated pursuant to the priorities specified in Section 12012.85.

(b) "Individual Tribal Casino Accounts" means an account for each individual tribe that has paid money into the Indian Gaming Special Distribution Fund. The individual tribal casino account shall be funded in proportion to the amount that the individual tribe has paid into the Indian Gaming Special Distribution Fund.

(c) "Local **government** jurisdiction" or "local jurisdiction" means any city, county, or special district.

(d) "**Special district**" means any agency of the state that performs governmental or proprietary functions within limited boundaries. "**Special district**" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone, district, or area that meets the requirements of this subdivision. "**Special district**" does not include a city, county, school district, or community college district.

Department of Finance Responsibilities

12713. The Department of Finance, in consultation with the California Gambling Control Commission, shall calculate the total revenue in the Indian Gaming Special Distribution Fund that will be available for the current budget year for local **government** agencies impacted by tribal gaming. The department shall include this information in the May budget revision.

Distribution of Funds

12714. (a) A County Tribal Casino Account is hereby created in the treasury for each county that contains a tribal casino.

(b) The amount to be deposited into each eligible county's County Tribal Casino Account shall be calculated in the following way:

(1) (A) For counties that do not have gaming devices subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund, the total amount to be appropriated by the Legislature for grants to local **government** agencies impacted by tribal gaming shall be multiplied by 5 percent.

(B) The amount determined pursuant to subparagraph **(A)** shall be divided by the aggregate number of gaming devices located in those counties that do not have gaming devices subject to an obligation to

Indian Gaming Special Distribution Fund

12714 continued

make contributions to the Indian Gaming Special Distribution Fund.

(C) The amount determined pursuant to subparagraph (B) shall be multiplied by the number of gaming devices located in each county for which an appropriation is being calculated that are not subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund.

(D) The amount determined pursuant to subparagraph (C) shall be deposited into the County Tribal Casino Account for the county for which the appropriation was calculated.

(2) (A) For counties that have gaming devices subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund, the total amount to be appropriated by the Legislature for grants to local **government** agencies impacted by tribal gaming shall be multiplied by 95 percent.

(B) The amount determined pursuant to subparagraph (A) shall be divided by the aggregate number of gaming devices located in those counties that have gaming devices subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund.

(C) The amount determined pursuant to subparagraph (B) shall be multiplied by the number of gaming devices located in each county for which an appropriation is being calculated that are subject to an obligation to make contributions to the Indian Gaming Special Distribution Fund.

(D) The amount determined pursuant to subparagraph (C) shall be deposited into the County Tribal Casino Account for the county for which the appropriation was calculated.

Responsibilities of the Controller and the Gambling Control Commission

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.

Indian Gaming Special Distribution Fund

12715 continued

Responsibilities of the Indian Gaming Local Community Benefit Committee

(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.

Composition of the Committee

(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.**

Indian Gaming Special Distribution Fund

12715 continued

(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.

Nexus Grants Available to Cities and Counties

(c) Sixty percent of each 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.

Geographic Priority of Jurisdictions

(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

Indian Gaming Special Distribution Fund

12715 continued

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).

Non-Nexus Grants

(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 nexus to impacts from any particular tribal casino, as described in paragraph (1) of subdivision (c). 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.

(e) (1) Twenty percent of each Individual Tribal Casino Account shall be available for discretionary grants to local jurisdictions impacted by tribes that are not paying into the Indian Gaming Special Distribution Fund. These grants shall be made available to local jurisdictions in the county irrespective of any nexus to impacts from any particular tribal casino, as described in paragraph (1) of subdivision (c), and irrespective of whether the impacts presented are from a tribal casino that is not paying into the Indian Gaming Special Distribution Fund. 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.

(A) Grants awarded pursuant to this subdivision are limited to addressing service-oriented impacts and providing assistance with

Indian Gaming Special Distribution Fund

12715 continued

one-time large capital projects related to Indian gaming impacts.

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

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

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

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

Priorities for the Receipt of Grant Money

(g) The following uses shall be the priorities for the receipt of grant money from Individual Tribal Casino Accounts:

- law enforcement
- fire services
- emergency medical services
- environmental impacts
- water supplies
- waste disposal
- behavioral
- health
- planning and adjacent land uses
- public health
- roads
- recreation and youth programs
- child care programs

Indian Gaming Special Distribution Fund

12715 continued

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

Requirements for Tribal Sponsorship

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

Requirements for Grant Recipients to Acknowledge Funds

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

Indian Gaming Special Distribution Fund

12715 continued

Accounting Responsibilities of Committee

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

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

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

San Diego County

12715.5. In San Diego County, the Indian Gaming Local Community Benefit Committee shall be comprised of seven representatives, consisting of the following:

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

(b) One elected representative from the city located within four miles of a tribal casino in the county, selected by the county board of supervisors.

(c) Three representatives selected upon the recommendation of a majority of the tribes paying into the Indian Gaming Special Distribution Fund in the county.

(d) The sheriff of San Diego County.

Annual Reporting Requirements

12716. (a) Each county that administers grants from the Indian Gaming Special Distribution Fund shall provide an annual report to

Indian Gaming Special Distribution Fund

the Chairperson of the Joint Legislative Budget Committee, the
12716 continued

chairpersons of the Senate and Assembly committees on governmental organization, and the California Gambling Control Commission by October 1 of each year detailing the specific projects funded by all grants in the county's jurisdiction in the previous fiscal year, including amounts expended in that fiscal year, but funded from appropriations in prior fiscal years. The report shall provide detailed information on the following:

- (1) The amount of grant funds received by the county.
 - (2) A description of each project that is funded.
 - (3) A description of how each project mitigates the impact of tribal gaming.
 - (4) The total expenditures for each project.
 - (5) All administrative costs related to each project, excluding the county's administrative fee.
 - (6) The funds remaining at the end of the fiscal year for each project.
 - (7) An explanation regarding how any remaining funds will be spent for each project, including the estimated time for expenditure.
 - (8) A description of whether each project is funded once or on a continuing basis.
- (b) A county that does not provide an annual report pursuant to subdivision (a) shall not be eligible for funding from the Indian Gaming Special Distribution Fund for the following year.**

State Audit

12717. The State Auditor shall conduct an audit every three years regarding the allocation and use of moneys from the Indian Gaming Special Distribution Fund by the recipient of the grant moneys. The State Auditor shall report its findings to the Legislature and to all other appropriate entities.

Effect of Statute

12718. This chapter shall remain in effect only until **January 1, 2021**, and as of that date is repealed, unless a later enacted statute that is enacted before **January 1, 2021**, deletes or extends that date.