

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON GOVERNMENTAL ORGANIZATION

Adam Gray, Chair

AB 2102 (Roger Hernández) – As Amended March 15, 2016

**SUBJECT:** Tribal gaming: Indian Gaming Local Community Benefit Committee

**SUMMARY:** Modifies an existing provision of law governing the award of local mitigation grants from the Indian Gaming Special Distribution Fund (IGSDF). Specifically, **this bill:**

1) Requires the Indian Gaming Local Community Benefit Committee to adopt and approve a Conflict of Interest Code and provides that any existing conflict of interest code must be reviewed and amended as necessary to bring it into compliance with these requirements.

**EXISTING LAW:**

1) Existing federal law, the Indian Gaming Regulatory Act of 1988, provides for the negotiation and execution of compacts for the purpose of authorizing class III gaming on Indian lands within a state. Additionally, the California Constitution authorizes the Governor to negotiate and conclude compacts, subject to ratification by the Legislature.

2) Establishes the IGSDF in the State Treasury for the receipt of revenue contributions made by tribal governments pursuant to the terms of the 1999 model Tribal-State Gaming Compacts (compacts).

3) Authorizes the Legislature to appropriate money from the IGSDF as follows: (1) Grants for programs designed to address gambling addiction; (2) Grants for the support of state and local government agencies impacted by tribal government gaming; (3) Compensation for regulatory costs incurred by the California Gambling Control Commission (CGCC) and the Department of Justice (DOJ) in connection with the implementation and administration of compacts; (4) Payment of shortfalls that may occur in the Indian Gaming Revenue Sharing Trust Fund (RSTF); (5) Disbursements for the purpose of implementing the terms of tribal labor relations ordinances promulgated in accordance with the terms of the 1999 compacts; and, (6) Any other purpose specified by law.

4) Provides that the priority for funding from the IGSDF is in the following descending order: (1) To make payments of any shortfalls that may occur in the RSTF; (2) Grants for programs designed to address gambling addiction; (3) Compensation to the CGCC and DOJ for regulatory functions that directly relate to Indian gaming; and, (4) Grants for the support of local government agencies impacted by tribal gaming.

5) Requires the State Auditor to conduct an audit every three years and report its findings to the Legislature regarding the allocation and use of SDF grant monies.

6) Establishes the RSTF in the State Treasury for the receipt and deposit of moneys derived from gaming device license fees paid by Indian tribes with 1999 compacts. Money in that fund is available to the CGCC, upon appropriation by the Legislature, for distribution to non-compact tribes, according to the terms of the compacts.

7) Requires the CGCC to annually determine the aggregate amount necessary to make up the difference between \$1.1 million and the actual amount paid to each eligible recipient Indian tribe during the Fiscal Year from the RSTF. The CGCC must report the amount of the deficiency to the Budget Committees in each house of the Legislature. Upon appropriation by the Legislature, the CGCC shall make payments to eligible recipient tribes, as specified.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

Local Benefit Committees: Existing law establishes Indian Gaming Local Community Benefit Committees with specified local government and tribal representation that are responsible for establishing SDF grant application policies and procedures, determining grant eligibility, and selecting grants from Individual Tribal Casino Accounts or County Tribal Casino Accounts based on "nexus test criteria" that mainly takes into consideration the geographical proximity of an applicant local government jurisdiction to the tribal casino.

All grants from Individual Tribal Casino Accounts are required to be made only upon the affirmative sponsorship of the tribe paying into the IGSDf from whose Individual Tribal Casino Account grants are available for distribution. Priority uses for the receipt of grant money from Individual Tribal Casino Accounts are as follows: law enforcement; fire services; emergency medical services; environmental impacts; water supplies; waste disposal; behavioral; health; planning and adjacent land use; public health; roads; recreation and youth programs; and, childcare programs.

Conflict of Interest Code: Existing law specifies that every agency promulgate and adopt a Conflict of Interest Code, which will have the force of law, and any violation is deemed a violation of state law. Such a "code" shall require that each designated employee file statements disclosing reportable investments, business positions, interests in real property and income. It also sets forth specific circumstances under which designated employees or categories of designated employees must disqualify themselves from making, participating in the making, or using their official position to influence the making of any decision.

Purpose of the bill: According to the author's office, this bill is intended to address several Bureau of State Audits (BSA) recommendations stemming from its 2011 review of the SDF and the benefit committees by ensuring that benefit committees' conflict-of-interest codes comply with the Political Reform Act by reviewing the act and their codes, and changing the codes as necessary to meet the act's requirements.

The BSA report revealed that members of benefit committees do not always make the financial disclosures required by state law. Although each member is required to file a statement of economic interest that helps to identify conflicts of interest that he or she might have, the review found that 12 of the 49-committee members in four of the seven counties whose grants were reviewed failed to file their statements. Further, two members filed statements more than a year late. Several factors contributed to these omissions, including the failure of some benefit committees to establish conflict-of-interest codes that include each of the elements required by state law as well as the failure of filing officers who collect such forms to follow guidelines for administering the process.

Prior legislation: AB 2515 (Hall), Chapter 704, Statutes of 2012. Modifies the procedures governing the award of local mitigation grants from the IGSDF to require grant applications to the Indian Gaming Local Community Benefit Committee to clearly show how the grant will mitigate the impact of the specified casino and appropriates \$9.1 million from the IGSDF.

AB 158 (Torrico) Chapter 754, Statutes of 2008. Enacted several recommendations proposed by the State Auditor relative to the allocation and uses of proceeds from the IGSDF.

SB 621 (Battin) Chapter 858, Statutes of 2003. Among other things, established, until 1/1/2009, priorities and procedures for specified funding to local governments from the IGSDF for mitigating impacts from tribal casinos. In addition, appropriated \$25 million from the IGSDF to mitigate the impact of tribal gaming on local governments.

AB 673 (J. Horton) Chapter 210, Statutes of 2003. Specified that money in the IGSDF may be used to make payment of shortfalls that may occur in the RSTF and specified that payment for those shortfalls in the RSTF shall be the priority use of moneys in the IGSDF. Also, established a mechanism by which funds may be transferred from the IGSDF to the RSTF pursuant to specified provisions of the tribal-state compacts and appropriated the sum of \$50,568,787.99 for the purpose of making payments to eligible Indian tribes for the preceding fiscal year. In addition, established and provided for the funding of the Office of Problem and Pathological Gambling in the Department of Alcohol and Drug Programs.

AB 1385 (Battin) Chapter 874, Statutes of 1999. Among other things, ratified 57 tribal-state gaming compacts and created two special funds in the State Treasury (IGSDF and RSTF) for the deposit of revenues derived from Indian gaming and gaming device licensing fees. In addition, designated the Governor as the state officer responsible for negotiating and executing compacts between the State and federally recognized Indian tribes located in the State.

**REGISTERED SUPPORT / OPPOSITION:****Support**

None on file

**Opposition**

None on file

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