

Tribal Gaming Mitigation Funding

Background

The federal Indian Gaming Regulatory Act (IGRA) allows federally-recognized tribes in California to conduct class-III gaming (slot machines and banked card games) under certain conditions. IGRA requires the state to negotiate in good faith with tribes to develop gaming compacts that apportion regulatory authority over class-III gaming between the state and the tribe. In California and other states, these compacts have included requirements to mitigate the impacts of class-III casinos on local governments and the off-reservation environment.

While a significant number of gaming compacts negotiated by the Governor and tribes and ratified by the Legislature in recent years have included a requirement that tribes negotiate directly with local governments to ensure that local impacts are mitigated, many earlier compacts did not require judicially-enforceable local mitigation agreements. Instead, these agreements from 1999 and 2000 rely on a state-run mitigation program

known as the Special Distribution Fund.

The Special Distribution Fund has a structural deficit because its first priority is to backfill an inadequately funded program to support economic development for tribes with limited or no gaming. Local government mitigation grants are the lowest priority and the funding available for these grants has been volatile, including several years where no funding was allocated for this purpose.

In addition to the funding challenges, counties have encountered difficulties successfully implementing the program due to overly restrictive rules for using the mitigation funds.

The 1999/2000 agreements had twenty-year terms and several have already been renegotiated. To date, the renegotiated agreements have required local mitigation agreements and reduced the reliance on the Special Distribution Fund for local government mitigation.

Talking Points

- **Judicially-enforceable local mitigation agreements** have proven to be the best means of addressing the impacts of class-III casinos on local government services, including infrastructure, public safety and other county services.
- Expiring gaming compacts, as well as new gaming compacts should **mitigate local impacts through binding local agreements**.
- The Special Distribution Fund frustrates tribes and local governments alike by providing inadequate funding for local mitigation. **Local mitigation agreements ensure that funding is available** to offset gaming impacts on the surrounding community.
- While local mitigation agreements should be the primary source of mitigation funding, until such agreements are universal, **the Special Distribution Fund process should be reformed** to give flexibility for projects that both tribes and local governments agree on.
- **New compacts should adequately fund economic development programs for non-gaming and limited gaming tribes** so that funding for local government mitigation grants is available from the Special Distribution Fund.

