

HOUSE BILL No. 2216

By Committee on Federal and State Affairs

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AN ACT concerning the state gaming agency; relating to the financing of the operations thereof; relating to the powers and duties thereof; relating to the officers and employees thereof; amending K.S.A. 2000 Supp. 74-9803, 74-9804, 74-9805 and 74-9808 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2000 Supp. 74-9803 is hereby amended to read as follows: 74-9803. (a) The state gaming agency is hereby transferred from the department of commerce and housing, designated by Executive Order No. 95-177 as the state gaming agency, and is attached to and made a part of the Kansas racing and gaming commission. *For the purposes of K.S.A. 74-8810, and amendments thereto, employees of the state gaming agency shall not be considered as employees of the Kansas racing and gaming commission.* The budget of the state gaming agency, the number and qualifications of employees of the state gaming agency and expenditures by the state gaming agency for expenses of dispute resolution pursuant to a tribal-state gaming compact shall be subject to approval by the Kansas racing and gaming commission. All other management functions of the state gaming agency shall be administered by the executive director. All vouchers for expenditures and all payrolls of the state gaming agency shall be approved by the executive director or a person designated by the executive director.

(b) Nothing in this act shall be construed as abolishing or reestablishing the state gaming agency.

Sec. 2. K.S.A. 2000 Supp. 74-9804 is hereby amended to read as follows: 74-9804. (a) (1) The governor shall appoint, subject to confirmation by the senate as provided by K.S.A. 75-4315b, and amendments thereto, an executive director of the state gaming agency, to serve at the pleasure of the governor. Before appointing any person as executive director, the governor shall cause the Kansas bureau of investigation to conduct a criminal history record check and background investigation of the person.

(2) The executive director shall: (A) Be in the unclassified service under the Kansas civil service act; (B) devote full time to the executive

1 director's assigned duties; (C) be a citizen of the United States and an
2 actual resident of Kansas during employment as executive director; (D)
3 not have been convicted of a felony under the laws of any state or of the
4 United States prior to or during employment; and (E) have familiarity
5 with gaming industries sufficient to fulfill the duties of the office of ex-
6 ecutive director.

7 (3) The executive director shall: (A) Determine, subject to the ap-
8 proval of the Kansas racing and gaming commission, the number and
9 qualifications of employees necessary to implement and enforce the pro-
10 visions of tribal-state gaming compacts and the provisions of the tribal
11 gaming oversight act; (B) employ persons for those positions; and (C)
12 perform such other duties as required by tribal-state gaming compacts.

13 (b) (1) The executive director may appoint a director of enforcement
14 and compliance to serve at the pleasure of the executive director. Before
15 appointing any person as director of enforcement and compliance, the
16 executive director shall cause the Kansas bureau of investigation to con-
17 duct a criminal history record check and background investigation of the
18 person.

19 (2) The director of enforcement and compliance shall: (A) Be in the
20 unclassified service under the Kansas civil service act; (B) devote full time
21 to the director's assigned duties; (C) receive such compensation as de-
22 termined by the executive director, subject to the limitations of appro-
23 priations therefor; (D) be a citizen of the United States and an actual
24 resident of Kansas during employment as director of enforcement and
25 compliance; (E) not have been convicted of a felony under the laws of
26 any state or of the United States prior to and during employment as
27 director of compliance; and (F) have been a professional law enforcement
28 officer with a minimum of five years' experience in the field of law en-
29 forcement and at least a bachelor's degree in law enforcement adminis-
30 tration, law, criminology or a related science or, in lieu thereof, a mini-
31 mum of 10 years' experience in the field of law enforcement.

32 (3) The director of enforcement and compliance shall: (A) Be vested
33 with law enforcement authority;

34 (B) conduct investigations relating to compliance with the provisions
35 of tribal-state gaming compacts and the provisions of the tribal gaming
36 oversight act;

37 (C) recommend proper compliance measures to tribal gaming
38 commissions;

39 (D) train and supervise such personnel as employed by the executive
40 director to assist with such duties; and

41 (E) perform such other duties as directed by the executive director.

42 (c) (1) The executive director may appoint enforcement agents. Be-
43 fore appointing any person as an enforcement agent, the executive di-

1 rector shall ~~cause the Kansas bureau of investigation to conduct~~ *require*
2 a criminal history record check and background investigation of the per-
3 son *to be conducted prior to the beginning of employment.*

4 (2) Each enforcement agent shall: (A) Be vested with law enforce-
5 ment authority;

6 (B) be in the classified service under the Kansas civil service act;

7 (C) not have been convicted of a felony under the laws of any state
8 or of the United States prior to or during employment as enforcement
9 agent; and

10 (D) be a professional law enforcement officer with a minimum of two
11 years' experience in the field of law enforcement or, in lieu thereof, a
12 bachelor's degree from an accredited university or college.

13 (3) Enforcement agents shall: (A) Conduct investigations relating to
14 compliance with the provisions of tribal-state gaming compacts or the
15 provisions of the tribal gaming oversight act; and (B) perform such other
16 duties as directed by the executive director or the director of enforcement
17 and compliance.

18 Sec. 3. K.S.A. 2000 Supp. 74-9805 is hereby amended to read as
19 follows: 74-9805. (a) The state gaming agency shall be responsible for
20 oversight of class III gaming conducted pursuant to tribal-state compacts
21 and, as such, shall monitor compliance with tribal-state gaming compacts
22 and perform the duties of the state gaming agency as provided by tribal-
23 state gaming compacts.

24 (b) The state gaming agency may examine and inspect all tribal gam-
25 ing facilities and facilities linked to Kansas tribal gaming facilities for gam-
26 ing, including but not limited to all machines and equipment used for
27 tribal gaming.

28 (c) The state gaming agency may examine, or cause to be examined
29 by any agent or representative designated by the executive director, any
30 books, papers, records, electronic records, computer records or surveil-
31 lance and security tapes and logs of any tribal gaming facility in accord-
32 ance with tribal-state gaming compacts.

33 (d) The executive director may issue subpoenas to compel access to
34 or for the production of any books, papers, records, electronic records,
35 computer records or surveillance and security tapes and logs in the cus-
36 tody or control of a tribal gaming facility or any officer, employee or agent
37 of a tribal gaming facility, or to compel the appearance of any officer,
38 employee or agent of a tribal gaming facility, for the purpose of ascer-
39 taining compliance with any of the provisions of a tribal-state gaming
40 compact or the tribal gaming oversight act. Subpoenas issued pursuant
41 to this subsection may be served upon individuals and corporations in the
42 same manner provided in K.S.A. 60-304 and amendments thereto for the
43 service of process by any officer authorized to serve subpoenas in civil

1 actions or by the executive director or an agent or representative desig-
2 nated by the executive director. In the case of the refusal of any person
3 to comply with any such subpoena, the executive director may make ap-
4 plication to any court of competent jurisdiction.

5 (e) The state gaming agency may institute the dispute resolution pro-
6 cedure, in accordance with a tribal-state gaming compact, to ensure pro-
7 duction of the documents required by the tribal-state gaming compact
8 and to ensure compliance with all provisions of the compact.

9 (f) The state gaming agency shall monitor, examine and inspect tribal
10 gaming to ensure that tribal gaming is conducted in compliance with
11 tribal-state gaming compacts.

12 (g) The state gaming agency shall review all licensing and disciplinary
13 actions taken by tribal gaming commissions or any party involved in the
14 tribal gaming and assess if the action complies with the terms of the
15 applicable tribal-state gaming compact.

16 (h) The executive director, or a designated employee, shall report any
17 substantial noncompliance with a tribal-state gaming compact to the
18 governor.

19 (i) The state gaming agency may negotiate a resolution between any
20 tribe conducting or operating tribal gaming and any local or county gov-
21 ernmental entity regarding the allocation or payment of additional ex-
22 penses or costs incurred by the governmental entity as a result of tribal
23 gaming, as provided by the applicable tribal-state gaming compacts.

24 (j) The state gaming agency may adopt background investigation and
25 fingerprinting policies or procedures in accordance with the terms of
26 tribal-state gaming compacts.

27 (k) The state gaming agency shall perform all functions and duties
28 required to comply with and ensure tribal compliance with tribal-state
29 gaming compacts.

30 (l) The state gaming agency shall require fingerprinting of all persons
31 necessary to verify qualifications for employment by the state gaming
32 agency or to verify qualification for any license issued pursuant to a tribal-
33 state gaming compact. The state gaming agency shall submit such fin-
34 gerprints to the Kansas bureau of investigation and to the federal bureau
35 of investigation for the purposes of verifying the identity of such persons
36 and obtaining records of criminal arrests and convictions.

37 (m) (1) The state gaming agency may receive *individual and corpo-*
38 *rate taxpayer information from the Kansas department of revenue. The*
39 *state gaming agency may receive* from the Kansas bureau of investigation
40 or other criminal justice agencies, including but not limited to the federal
41 bureau of investigation and the federal internal revenue service, such
42 criminal history record information (including arrest and nonconviction
43 data), criminal intelligence information and information relating to crim-

1 inal and background investigations as necessary for the purpose of deter-
2 mining qualifications of employees of and applicants for employment by
3 the state gaming agency and determining qualifications of licensees and
4 applicants for licensure in tribal gaming. Upon the written request of the
5 executive director, the state gaming agency may receive from the district
6 courts such information relating to juvenile proceedings as necessary for
7 the purpose of determining qualifications of employees of and applicants
8 for employment by the state gaming agency and determining qualifica-
9 tions of licensees of and applicants for licensure in tribal gaming.

10 (2) The state gaming agency may disclose information received pur-
11 suant to subsection (m)(1) to a tribal gaming commission as necessary for
12 the purpose of determining qualifications of employees of or applicants
13 for employment by such tribal gaming commission or qualifications of
14 licensees or applicants for licensure by such tribal gaming commission.

15 (3) Any information, other than conviction data, received by the state
16 gaming agency pursuant to subsection (m)(1) or by a tribal gaming com-
17 mission pursuant to subsection (m)(2) shall be confidential and shall not
18 be disclosed except to the executive director, employees of the state gam-
19 ing agency and members and employees of the tribal gaming commission,
20 as necessary for the purposes specified by subsections (m)(1) and (m)(2),
21 *and upon written request to the executive director to agencies of other*
22 *states who are engaged in the regulation of Class III or casino gaming.*
23 Any other disclosure of such confidential information is a class A non-
24 person misdemeanor and shall constitute grounds for removal from office,
25 termination of employment or denial, revocation or suspension of any
26 license issued by the tribal gaming commission.

27 (n) The executive director may adopt rules and regulations to imple-
28 ment, administer and enforce the provisions of the tribal gaming oversight
29 act.

30 Sec. 4. K.S.A. 2000 Supp. 74-9808 is hereby amended to read as
31 follows: 74-9808. (a) There is hereby created the tribal gaming fund in
32 the state treasury.

33 (b) All amounts collected by the state gaming agency pursuant to
34 tribal-state gaming compacts shall be remitted to the state treasurer, who
35 shall deposit the entire amount in the state treasury and credit it to the
36 tribal gaming fund. All moneys credited to such fund shall be expended
37 or transferred only for the purposes and in the manner provided by this
38 act and tribal-state gaming compacts. Expenditures from such fund shall
39 be made in accordance with appropriation acts upon warrants of the di-
40 rector of accounts and reports issued pursuant to vouchers approved by
41 the executive director or a person designated by the executive director.

42 (c) All operating expenses of the state gaming agency and the provi-
43 sions of the tribal gaming oversight act shall be paid from the tribal gam-

1 ing fund.

2 (d) The executive director and the director of accounts and reports
3 may provide for the establishment of such accounts in the tribal gaming
4 fund as necessary or expedient to carry out the state's responsibilities and
5 authority under tribal-state gaming compacts and the provisions of the
6 tribal gaming oversight act.

7 (e) Any appropriation or transfer of state general fund moneys for
8 operations of the state gaming agency and any other expenses incurred
9 in connection with the administration and enforcement of tribal-state
10 gaming compacts or the provisions of the tribal gaming oversight act shall
11 be considered a loan and shall be repaid with interest to the state general
12 fund in accordance with appropriation acts. Such loan shall not be con-
13 sidered an indebtedness or debt of the state within the meaning of section
14 6 of article 11 of the constitution of the state of Kansas. Such loan shall
15 bear interest at a rate equal to the rate prescribed by K.S.A. 75-4210 and
16 amendments thereto for inactive accounts of the state effective on the
17 first day of the month during which the appropriation or transfer takes
18 effect.

19 ~~—(f) At the time of repayment of a loan pursuant to subsection (d), the~~
20 ~~executive director shall certify to the director of accounts and reports the~~
21 ~~amount to be repaid and any interest due thereon. Upon receipt of such~~
22 ~~certification, the director of accounts and reports shall promptly transfer~~
23 ~~the amount certified from the tribal gaming fund to the state general~~
24 ~~fund reimbursed in accordance with the tribal-state gaming compact.~~

25 Sec. 5. K.S.A. 2000 Supp. 74-9803, 74-9804, 74-9805 and 74-9808
26 are hereby repealed.

27 Sec. 6. This act shall take effect and be in force from and after its
28 publication in the statute book.

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