

Assembly Bill No. 923

CHAPTER 475

An act to add Section 11019.81 to the Government Code, relating to state government.

[Approved by Governor September 23, 2022. Filed with
Secretary of State September 23, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 923, Ramos. Government-to-Government Consultation Act: state-tribal consultation: training.

Existing law encourages and authorizes all state agencies to cooperate with federally recognized California tribes on matters of economic development and improvement for the tribes, including providing information on programs available to assist Indian tribes, providing technical assistance on the preparation of grants and applications for public and private funds, and conducting meetings and workshops.

This bill would encourage the state and its agencies to consult on a government-to-government basis with federally recognized and, as specified, with nonfederally recognized tribes. The bill would designate state officials authorized to represent the state in government-to-government consultations, as provided. The bill would require the Department of Human Resources, in consultation with state entities experienced in tribal issues and with tribal governments, to develop a training, by June 1, 2024, regarding the required elements of training on government-to-government consultations. The bill would require the designated state officials to complete the training by January 1, 2025, or, for officials appointed after that date, within 6 months of their appointment, as specified, and would require each official to retake the training annually.

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

SECTION 1. (a) On November 9, 2000, President Bill Clinton issued Executive Order 13175, stating “in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications, to strengthen the United States government-to-government relationships with Indian tribes” That order required all federal departments to establish an “accountable process to ensure meaningful and timely input by tribal officials.”

(b) On September 19, 2011, Governor Edmund G. Brown Jr. issued Executive Order B-10-11, which established the Office of the Governor’s Tribal Advisor, to “oversee and implement effective

government-to-government consultation between my Administration and Tribes on policies that affect California tribal communities.”

(c) On June 18, 2019, Governor Gavin Newsom, in Executive Order N-15-19, reaffirmed the State’s commitment, requiring “the Governor’s Tribal Advisor and the Administration to engage in government-to-government consultation with California Native American Tribes.”

(d) This act intends to support the executive branch’s commitment to government-to-government consultation by establishing whom in state agencies has authority to represent the State of California in such consultations, providing for how such consultations will be conducted, and requiring training to support such consultations.

SEC. 2. Section 11019.81 is added to the Government Code, immediately following Section 11019.8, to read:

11019.81. (a) This section shall be known and may be cited as the Government-to-Government Consultation Act.

(b) For purposes of this section, all of the following shall apply:

(1) “Agency action” includes, but is not limited to, agency development of policies, regulations, guidelines, processes, programs, and projects with tribal implications.

(2) “Federally recognized tribe” means a tribe located in the state and acknowledged by the federal government pursuant to the annual list published under the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. Sec. 479a) in the Federal Register.

(3) “Tribal implications” are agency actions that impact one or more federally recognized tribes or nonfederally recognized tribes or tribal organizations, the government-to-government relationship between the state and federally recognized tribes, or the distribution of power and responsibilities between the state and federally recognized tribes.

(c) The Legislature encourages the State of California and its agencies to consult on a government-to-government basis with federally recognized tribes, and to consult with nonfederally recognized tribes and tribal organizations, as appropriate, in order to allow tribal officials the opportunity to provide meaningful and timely input in the development of policies, processes, programs, and projects that have tribal implications.

(d) At the request of a federally recognized tribe for a government-to-government consultation on a specified agency action, the Legislature encourages the state and its agencies to consult with the tribe as to the specified agency action within 60 days of the request.

(e) Each agency director is encouraged to consider the need for tribal consultation before approving an agency action.

(f) (1) Within the executive branch, the following officials shall have authority to represent the state in a tribal government-to-government consultation:

(A) The Governor.

(B) The Attorney General.

(C) Each constitutional officer and statewide elected official.

(D) The director of each state agency and department.

(E) The chair and the executive officer of each state commission and task force.

(F) The chief counsel of any state agency.

(2) Each official authorized by this subdivision may formally designate another agency official to conduct preliminary tribal consultations, and each designated official may have the authority to act on behalf of the state during a government-to-government consultation.

(g) (1) On or before June 1, 2024, the Department of Human Resources, in consultation with state entities experienced in tribal issues and with tribal governments, shall develop a training regarding the required elements of training on government-to-government consultations for the officials specified in subdivision (f).

(2) The training shall include details on government-to-government consultation, including, but not limited to, all of the following elements:

(A) Timing and notice.

(B) Form, including, but not limited to, in-person meetings, video conferences, teleconferences, and written correspondence.

(C) Principles.

(D) Resolution.

(E) Tribal sovereignty.

(F) Sacred sites.

(G) Changes or updates to state law that affect California tribes and that would require government-to-government consultation.

(h) All officials listed in subdivision (f) shall complete the training on government-to-government consultation by January 1, 2025, or, for officials appointed after that date, within six months of their appointment or confirmation of appointment, whichever is later. Each official shall retake the training annually.