

1 H.124

2 Introduced by Representatives Consejo of Sheldon, Mrowicki of Putney,

3 Savage of Swanton and Young of St. Albans City

4 Referred to Committee on

5 Date:

6 Subject: Native Americans; recognition; arts and crafts

7 Statement of purpose: This bill proposes to recognize certain bands within the
8 Abenaki Nation as the original Native American tribes residing in Vermont, to
9 give the Vermont commission on Native American affairs the authority to
10 recognize other tribes and bands of Native Americans, and to set out the
11 procedures and criteria for granting recognition.

12 An act relating to recognition of tribes and bands of Native Americans by
13 the Vermont Commission on Native American Affairs

14 It is hereby enacted by the General Assembly of the State of Vermont:

15 Sec. 1. 1 V.S.A. § 852(b) and (c) are amended to read:

16 (b) The commission shall ~~comprise~~ be composed of seven members, who
17 are residents of Vermont and provide a broad representation of Native
18 American tribes and bands. The members shall be appointed by the governor
19 for two-year staggered three-year terms from a list of candidates compiled by
20 ~~the division for historic preservation.~~ The governor shall appoint a chair from

1 among the members of the commission. ~~The division shall compile a list of~~
2 ~~candidates' recommendations from the following.~~ The commission shall be
3 organized as follows:

4 (1) ~~Recommendations from the Missisquoi Abenaki and other Abenaki~~
5 ~~and other Native American regional tribal councils and communities in~~
6 ~~Vermont~~ Three members, one from each of the following three bands of the
7 Sovereign Abenaki Nation shall be appointed from a list of three candidates
8 offered by each of the following bands:

9 (A) The Abenaki Nation of the Missisquoi St. Francis/Sokoki Band,
10 now or formerly lead by Chief April St. Francis-Merrill.

11 (B) The Koasek Traditional Band of the Abenaki Nation of the Koas,
12 now or formerly led by Chief Nancy Millette.

13 (C) The Nulhegan Band, now or formerly led by Chief Luke Willard.

14 (2) ~~Applicants~~ Four members shall be appointed from a list of applicants
15 who apply in response to solicitations, publications, and website notification
16 by the division of historical preservation.

17 (3) The division for historic preservation of the department of housing
18 and community affairs shall provide administrative support to the commission
19 in carrying out the requirements of this section.

1 (4) The commission shall be entitled to per diem compensation and
2 actual and necessary expenses in accordance with 32 V.S.A. § 1010 for
3 meetings held for the purpose of acting on applications for recognition.

4 (c) The commission ~~shall have~~ has the authority to assist Native American
5 tribal councils, organizations, and individuals to do the following:

6 (1) Secure social services, education, employment opportunities, health
7 care, housing, and census information.

8 (2) ~~Permit the creation, display, and sale of Native American arts and~~
9 ~~crafts and legally to label them~~ Legally label Native American-made arts and
10 crafts as Indian- or Native American-produced as provided in 18 U.S.C.
11 § 1159(c)(3)(B) and 25 U.S.C. § 305e(d)(3)(B).

12 (3) Receive assistance and support from the federal Indian Arts and
13 Crafts Board, as provided in 25 U.S.C. § 305 et seq.

14 (4) Become eligible for federal assistance with educational, housing, and
15 cultural opportunities.

16 (5) Establish and continue programs offered through the U.S.
17 Department of Education Office on Indian Education pursuant to Title VII of
18 the Elementary and Secondary Education Act established in 1972 to support
19 educational and cultural efforts of tribal entities that have been either state or
20 federally recognized.

1 (6) Formally recognize tribes and bands of Native Americans on behalf
2 of the state for the sole purpose specified in subdivisions (1) – (5) of this
3 subsection in compliance with section 853 of this title.

4 Sec. 2. 1 V.S.A. § 853 is amended to read:

5 § 853. RECOGNITION OF ABENAKI PEOPLE: CRITERIA;

6 PROCEDURE

7 (a) The state of Vermont recognizes the Abenaki ~~people~~ Nation and
8 recognizes all Native American people who reside in Vermont as a minority
9 population.

10 (b) The state of Vermont recognizes the following bands of the Abenaki
11 Nation as original Native American tribes in Vermont:

12 (1) The Abenaki Nation of the Missisquoi St. Francis/Sokoki Band, now
13 or formerly led by Chief April St. Francis-Merrill.

14 (2) The Koasek Traditional Band of the Abenaki Nation of the Koas,
15 now or formerly led by Chief Nancy Millette.

16 (3) The Nulhegan Band, now or formerly led by Chief Luke Willard.

17 (c) ~~Recognition of the Native American or Abenaki people provided in~~
18 ~~subsection (a) of~~ under this section or by the general assembly shall be for the
19 sole purposes specified in ~~subsection 852(e)~~ subdivisions 852(c)(1) – (5) of this
20 title and shall not be interpreted to provide any Native American or Abenaki

1 ~~person~~ individual with any other special rights or privileges that the state does
2 not confer on or grant to other state residents.

3 ~~(e)~~(d) Recognition procedure:

4 (1) For the purpose of this section:

5 (A) "Applicant" means a Native American nation, tribe, or band
6 seeking formal state recognition.

7 (B) "Nation," "tribe," or "band" means an assembly of Native
8 American or Indian people who are related to each other by blood and kinship
9 and who trace their ancestry to a kinship group that has historically maintained
10 influence and authority over its members.

11 (C) "Recognized" means acknowledged as a Native American tribe
12 or band by the Vermont general assembly or the Vermont commission on
13 Native American affairs.

14 (2) Applications for recognition shall be submitted to the commission
15 which shall review the application and documentation to determine compliance
16 with subdivision (6) of this subsection. The commission may recognize an
17 applicant if two-thirds of the commission members eligible to vote determine
18 that an applicant meets the criteria set forth in this section. A commission
19 member who is a member of an applicant group or who has an economic or
20 other conflict of interest shall be disqualified from participating in the
21 consideration or vote on the application for recognition.

1 (3) No later than 10 days after receipt of an application, the commission
2 shall schedule at least one public hearing. The commission shall provide
3 public notice of the application and the time and location of the hearing at least
4 five days prior to the hearing. All proceedings on an application shall be
5 public, and the application and supporting documentation are not exempt from
6 the provisions of section 317 of this title and shall become part of the
7 application record. The commission may consult with historians,
8 anthropologists, genealogists, or other experts during its deliberations
9 regarding recognition.

10 (4) An applicant or successor that has been denied recognition by the
11 commission is ineligible to reapply unless the applicant provides new evidence
12 or documentation to support the application, and that evidence or
13 documentation was not reasonably available at the time of the initial
14 application.

15 (5) Upon request, the commission shall provide an applicant with
16 technical assistance, including an explanation of the recognition process.

17 (6) An application for recognition shall include a signed statement from
18 the applicant's leaders affirming that the information is true and accurate. Any
19 individual seeking recognition on behalf of a tribe or band shall be a Vermont
20 resident. The application shall be accompanied by documentation of all the
21 following:

1 (A) The relationship by blood and kinship of the members of the
2 applicant tribe or band or their ancestral connection to a kinship group.

3 (B) Historical maintenance of the following by the applicant group:

4 (i) Continuous connections with Abenaki tribes or bands that have
5 historically inhabited Vermont and with that geographic area and the historical
6 Abenaki homeland.

7 (ii) Influence and authority over its members.

8 (C) Genealogy that demonstrates the relationships among the kinship
9 groups to which the applicant belongs.

10 (D) Traditions, customs, oral stories, and histories of Abenaki
11 cultural heritage.

12 (E) The structure, membership criteria, and process by which the
13 tribe or band conducts its affairs.

14 (7) Recognition of any tribe or band may be revoked or an application
15 for recognition rejected if the commission finds that the applicant made any
16 material misrepresentations.

17 (e) This chapter shall not be construed to recognize, create, extend, or form
18 the basis of any right or claim to land or real estate in Vermont for the Abenaki
19 people or any Abenaki individual and shall be construed to confer only those
20 rights specifically described in this chapter.

1 Sec. 3. CONDITIONAL RECOGNITION

2 (a) For the purposes of the Indian Arts and Crafts Act of 1990, Public Law
3 101-644 (104 stat 4663-64), as amended, the state of Vermont recognizes the
4 following bands of the Abenaki Nation on the condition that each band that has
5 not yet been recognized by the commission submits to the commission by
6 March 1, 2011, information required by 1 V.S.A. § 854(f):

7 (1) The Abenaki Nation of the Missisquoi St. Francis Sokoki Band, now
8 or formerly led by Chief April St. Francis-Merrill.

9 (2) The Koasek Traditional Band of the Abenaki Nation of the Koas,
10 now or formerly led by Chief Nancy Millette.

11 (3) The Nulhegan Band, now or formerly led by Chief Luke Willard.

12 (b) No more than six months after receipt of the application, the
13 commission shall review the application and supporting documentation or
14 request supplemental or further clarifying information that must be submitted
15 within two months after the request, unless more time is granted by the
16 commission.

17 (c) No later than eight months after receipt of an application for recognition
18 or two months after receipt of any supplemental or additional clarifying
19 information, the commission shall hold a hearing and decide whether
20 recognition of the bands listed in subsection (a) of this section shall be
21 continued or revoked.

1 Sec. 4. SUNSET

2 Sec. 3 of this act (conditional recognition) shall be repealed on January 15,
3 2013.

4 Sec. 5. EFFECTIVE DATE

5 This act shall take effect on passage.