

1 S.222

2 Introduced by Senators Miller, Snelling and Carris

3 Referred to Committee on Economic Development, Housing & General  
4 Affairs

5 Date: January 5, 2010

6 Subject: Abenaki people; recognition; Vermont commission on Native  
7 American affairs

8 Statement of purpose: This bill proposes to recognize the following tribes as  
9 the original Western Abenaki Indian tribes residing in Vermont: the Abenaki  
10 Nation of Missisquoi St. Francis Sokoki Band, composed of the Missisquoi,  
11 St. Francis, and Sokoki Bands; the Koasek Traditional Band of the Koas  
12 Abenaki Nation; the Nulhegan Band of the Abenaki Nation, also known as the  
13 Northern Coosuk/Old Philip's Band; and the ELNU Abenaki Tribe of the  
14 Koasek. The bill also proposes to amend the composition of the Vermont  
15 commission on Native American affairs, and to adopt the United Nations  
16 Declaration on the Rights of Indigenous Peoples.

17 An act relating to recognition of Abenaki tribes

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

1 ~~Sec. 1. 1 V.S.A. § 852 is amended to read:~~

2 § 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS

3 ESTABLISHED; AUTHORITY

4 (a) In order to recognize the historic and cultural contributions of Native  
5 Americans to Vermont, to protect and strengthen their heritage, and to address  
6 their needs in state policy, programs, and actions, there is hereby established  
7 the Vermont commission on Native American affairs (the "commission").

8 (b) The commission shall ~~comprise~~:

9 (1) Be composed of the following seven members:

10 (A) Three members appointed by the Abenaki Nation of Missisquoi,  
11 St. Francis Sokoki Band having been composed of the three Missisquoi bands.

12 (B) One member appointed by the Koasek Traditional Band of the  
13 Koas Abenaki Nation.

14 (C) One member appointed by the Nulhegan Band of the Abenaki  
15 Nation.

16 (D) One member appointed by the ELNU Abenaki Tribe of the  
17 Koasek.

18 (E) One member appointed by the governor for two year terms other  
19 six commission members from a list of candidates compiled by the division for  
20 historic preservation. ~~The governor shall appoint a chair from among the~~

1 ~~members of the commission. The division shall compile a list of candidates'~~

2 ~~based on~~ recommendations from ~~the following:~~

3 ~~(1) Recommendations from the Missisquoi Abenaki and other Abenaki~~  
4 ~~and other Native American regional tribal councils and communities in~~  
5 ~~Vermont.~~

6 ~~(2) Applicants~~ applicants who apply in response to solicitations,  
7 publications, and website notification by the division of ~~historical preservation.~~

8 (2) Elect a chair and serve for two-year terms.

9 (c) The commission shall have the authority to assist Native American  
10 tribal councils, organizations, and individuals to:

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

13 (2) Permit the creation, display, and sale of Native American arts and  
14 crafts and legally to label them as Abenaki-, Indian-, or Native  
15 American-produced as provided in 18 U.S.C. § 1159(c)(3)(B) and 25 U.S.C.  
16 § 305e(d)(3)(B).

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

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

1 ~~(5) Establish and continue programs offered through the U.S.~~

2 Department of Education Office on Indian Education pursuant to Title VII of  
3 the Elementary and Secondary Education Act established in 1972 to support  
4 educational and cultural efforts of tribal entities that have been either state or  
5 federally recognized.

6 (6) Consult with the Abenaki Nation of Missisquoi, St. Francis Sokoki  
7 Band; the Koasek Traditional Band of the Koas Abenaki Nation; the Nulhegan  
8 Band of the Abenaki Nation; and the ELNU Abenaki Tribe of the Koasek in  
9 determining state policy and programs on issues affecting indigenous peoples  
10 within the state of Vermont.

11 (d) The commission shall meet at least three times a year and at any other  
12 times at the request of the chair. The agency of commerce and community  
13 development and the department of education shall provide administrative  
14 support to the commission.

15 (e) The commission may seek and receive funding from federal and other  
16 sources to assist with its work.

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

18 § 853. RECOGNITION OF ABENAKI PEOPLE

19 (a) The state of Vermont recognizes ~~the Abenaki people and recognizes all~~  
20 Native American people who reside in Vermont as a minority population.

1 ~~(b) Recognition of the Native American or Abenaki people provided in~~  
2 subsection (a) of this section shall be for the sole purposes specified in  
3 subsection 852(c) of this title and shall not be interpreted to provide any Native  
4 American or Abenaki person with any other special rights or privileges that the  
5 state does not confer on or grant to other state residents.

6 (c) This chapter shall not be construed to recognize, create, extend, or form  
7 the basis of any right or claim to land or real estate in Vermont for the Abenaki  
8 people or any Abenaki individual and shall be construed to confer only those  
9 rights specifically described in this chapter.

10 (d) The state of Vermont adopts the United Nations Declaration on the  
11 Rights of Indigenous Peoples, which gives indigenous people the right to  
12 self-determination and to freely practice traditions and customs without  
13 discrimination.

14 (e) The state of Vermont recognizes the Abenaki Nation of Missisquoi, St.  
15 Francis Sokoki Band, which is composed of the former Missisquoi, St.  
16 Francis, and Sokoki Bands; the Koasek Traditional Band of the Koas Abenaki  
17 Nation; the Nulhegan Band of the Abenaki Nation, also known as the Northern  
18 Coosuk/Old Philip's Band; and the ELNU Abenaki Tribe of the Koasek as the  
19 original sovereign Western Abenaki Indian tribes residing in Vermont.

20 (f) The Vermont commission on Native American affairs shall recommend  
21 to the general assembly that the state of Vermont recognize any tribe not

1 ~~identified in subsection (e) of this section, provided the tribe demonstrates~~

2 ~~compliance with all the following:~~

3 ~~(1) Has a tribal council, a constitution, and a chief.~~

4 ~~(2) Owens land in Vermont or provides historic records that document~~  
5 ~~that the tribe has had an historic presence in Vermont.~~

6 ~~(3) Is recognized by other Native American communities.~~

*Sec. 1. FINDINGS*

*The general assembly finds the following:*

*(1) State recognition of Vermont's tribes is necessary in order for the Indian Arts and Crafts Board (IACB) of the Bureau of Indian Affairs to permit them to market their arts and crafts as authentic Indian products and to provide tribal members access to state, federal, and private aid for cultural, artistic, and educational endeavors.*

*(2) In May 2006, the general assembly passed S.117, Act No. 125, in an effort to recognize the Abenaki people and create a Vermont Commission on Native American Affairs. The act failed to comport with the recognition requirements of the IACB, and therefore prevented Vermont Native Americans from marketing their arts and crafts as authentic Indian works.*

*(3) Fifteen other states have recognized their resident Native people as American Indian Tribes, without any of those tribes previously or subsequently acquiring federal recognition.*

*(4) According to a public affairs specialist from the U.S. Bureau of Indian Affairs (BIA) state recognition of Indian tribes plays a very small role in regard to federal recognition. The only exception is when a state recognized a tribe well before 1900.*

*(5) Recognition of a tribe by a state at this time will play no significant role in any subsequent effort to gain federal tribal recognition.*

*Sec. 2. 1 V.S.A. § 852 is amended to read:*

*§ 852. VERMONT COMMISSION ON NATIVE AMERICAN AFFAIRS ESTABLISHED; AUTHORITY*

*(a) In order to recognize the historic and cultural contributions of Native Americans to Vermont, to protect and strengthen their heritage, and to address*

~~their needs in state policy, programs, and actions, there is hereby established the Vermont commission on Native American affairs (the "commission").~~

~~(b) The commission shall comprise seven members appointed by the governor for two-year terms from a list of candidates compiled by the division for historic preservation. The governor shall appoint a chair from among the members of the commission. The division shall compile a list of candidates' recommendations from the following:~~

~~(1) Recommendations from the Missisquoi Abenaki and other Abenaki and other Native American regional tribal councils and communities in Vermont.~~

~~(2) Applicants who apply in response to solicitations, publications, and website notification by the division of historical preservation.~~

~~(1) Be composed of the following members, who shall serve for no more than two consecutive three-year terms:~~

~~(A) Three members appointed by the Abenaki Nation of Missisquoi, St. Francis Sokoki Band, which is composed of the three Missisquoi Bands.~~

~~(B) One member appointed by the Koasek Traditional Band of the Koas Abenaki Nation.~~

~~(C) One member appointed by the Nulhegan Band of the Abenaki Nation.~~

~~(D) One member appointed by the ELNU Abenaki Tribe of the Koasek.~~

~~(E) One member appointed by any additional Abenaki tribe following recognition by the general assembly.~~

~~(F) Two or three at-large members to assure an odd number of members on the commission, to be appointed by the other commission members.~~

~~(2) Elect a chair to serve for two years.~~

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

~~(1) Assist Native American tribes recognized by the state to:~~

~~(A) Develop and market Vermont Native American fine and performing arts, craftwork, and cultural events in and outside Vermont.~~

~~(B) Secure social services, education, employment opportunities, health care, housing, and census information.~~

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

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

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

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

(2) Assist bands and groups of Native Americans who are unrecognized to organize and develop a representative tribal organization in order to petition for legal tribal recognition by the state.

(3) Review petitions for tribal recognition, and, if satisfied that petitioners have complied with recognition criteria, file with the general assembly a copy of the petition together with a recommendation to recognize the band or group as a recognized tribe.

(4) Develop policies and programs to benefit Vermont's Native American population.

~~(d) The commission shall meet at least three times a year and at any other times at the request of the chair. The division of historic preservation of the agency of commerce and community development and ~~the department of education~~ shall provide administrative support to the commission.~~

~~(e) The commission may seek and receive funding from state, federal, and other sources to assist with its work.~~

Sec. 3. 1 V.S.A. § 853 is amended to read:

§ 853. RECOGNITION OF ABENAKI PEOPLE

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

~~(b) Recognition of the Native American or Abenaki people provided in subsection (a) of this section shall be for the sole purposes specified in subsection 852(e) of this title and shall not be interpreted to provide any Native American or Abenaki person with any other special rights or privileges that the state does not confer on or grant to other state residents. For the~~

purposes of recognition, a Vermont Native American tribe must demonstrate that it has all of the following:

(1) A physical and legal residence in Vermont.

(2) An organized tribal membership roll along with specific criteria that were used to determine membership, including evidence of kinship among tribal members.

(3) Documented traditions, customs, and legends that signify Native American heritage.

(4) A tribal council, a constitution, and a chief.

(5) Been and continues to be recognized by other Native American communities in Vermont as a Vermont Native American band or group.

(6) Been known by state, county, or municipal officials, as a functioning Native American band or group in Vermont.

(7) Not been recognized as a tribe in any other state, province, or nation.

(8) An enduring community presence within the boundaries of Vermont that is documented by archaeology, ethnography, physical anthropology, history, genealogy, folklore, or any other applicable scholarly research and data.

(c) A band or group of Native Americans not identified in subsection (e) of this section may file a petition for recognition with the commission. If after thorough review of the petition and evidence supporting recognition, the commission determines that the petitioning group has complied with the criteria under subsection (b) of this section, the commission shall recommend to the general assembly that the state recognize the tribe.

(d) After a group or band is recognized by the general assembly as a Native American tribe, the band or group may refer to itself as a recognized tribe, and the tribe may appoint a member of that tribe to the Vermont commission on Native American affairs.

(e) Having complied with the criteria in subsection (b) of this section, the following groups or bands are recognized as Native American tribes by the state of Vermont:

(1) The Abenaki Nation of Missisquoi, St. Francis Sokoki Band, composed of the former Missisquoi, St. Francis, and Sokoki Bands.

(2) The Koasek Traditional Band of the Koas Abenaki Nation.

(3) The Nulhegan Band of the Abenaki Nation, historically known as the Northern Coosuk/Memphremagog/Old Philip's Band.

(4) The ELNU Abenaki Tribe of the Koasek.

(f) Native American tribes recognized by the state of Vermont may freely practice their traditional culture, lifeways, arts, language, and religion without interference, provided there is no violation of law.

(g) All documents related to recognition of any Vermont Native American tribe shall be maintained by the division of historic preservation and made available to the public.

(h) This chapter shall not be construed to recognize, create, extend, or form the basis of any right or claim to land or real estate in Vermont for the Abenaki people or any Abenaki individual and shall be construed to confer only those rights specifically described in this chapter. Abenaki tribes and other Vermont Native American tribes and individual members of those tribes are subject to the laws of the state.

*Sec. 4. EFFECTIVE DATE*

*This act shall take effect on passage.*