

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 291

H. P. 218

House of Representatives, January 18, 1973

Referred to Committee on Human Resources. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Mills of Eastport.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

**AN ACT Relating to Biennial Elections of the Passamaquoddy Tribe of
Indians.**

Be it enacted by the People of the State of Maine, as follows:

R. S., T. 22, § 4831, repealed and replaced. Section 4831 of Title 22 of the Revised Statutes, as repealed and replaced by section 63 of chapter 544 of the public laws of 1967 and as amended, is repealed and the following enacted in place thereof:

§ 4831. Biennial elections

Biennially on the even-numbered years, on the Tuesday following Labor Day in September, the Passamaquoddy Tribe of Indians shall hold their election for the choice of governor and lieutenant governor of each reservation of said tribe, a representative at the Legislature of this State and a tribal council to consist of 6 members of said tribe from each reservation, all of whom must be at least 18 years of age. The representative at the Legislature of this State shall be chosen alternately between the 2 reservations. Only certified members of the tribe who are 18 years of age or older shall be eligible to vote. All persons so elected shall hold office for 2 years commencing on the first day of October on the even-numbered years beginning October 1, 1968, or until their successors are elected. Whenever any vacancy occurs, the commissioner shall call a meeting of the tribe to fill such vacancy. Vacancies shall be filled through appointment by the respective tribal governor with the advice and consent of the respective tribal council.

The governor, lieutenant governor and council of each reservation of said tribe may be removed from office by a petition showing charges and signed by a number of tribal voters equal to at least a majority of the total number

of votes cast for all candidates for tribal governor at the reservation concerned at the next preceding tribal election. The representative of the Passamaquoddy Tribe at the Legislature may be removed from office by a petition showing charges and signed by a number of tribal voters equal to at least a majority of the total number of votes for all candidates for tribal representative on both reservations of the said tribe at the next preceding tribal election. The petition must then be presented in writing to the governor, lieutenant governor and council of the reservation concerned, or if the petition concerns the representative, then the petition must be presented to the governors, lieutenant governors and councils of both reservations. The Commissioner of Indian Affairs shall then be notified that such a petition has been presented and shall thereupon call a formal hearing to act upon such petition.

The governors shall preside over all meetings of the council and be a member ex officio. In the absence of the governor, the lieutenant governor shall preside. Four members of such council from each reservation shall constitute a quorum thereof for the purpose of conducting the affairs of the tribe on each reservation and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. At joint meetings of the tribal councils from both reservations, a total of 7 council members shall constitute a quorum, with at least 3 members being present from one reservation.

The tribal governor of each reservation shall call a general meeting of all tribal members residing on the respective reservation for the purpose of affirming or rejecting legislative proposals prepared by the respective governors and councils for submission to the State Legislature. The time and place of such meeting shall be posted 7 or more days prior to the meeting day at the office of the tribal governor and at one other conspicuous place on the reservation. All legislative proposals receiving an affirmative vote of a majority of those present and voting at such general meeting shall be given to the tribal representative to the State Legislature for submission to the Legislature.

On the first Tuesday of August biennially on the even-numbered years, the Passamaquoddy Tribe of Indians shall hold a caucus for the purpose of nominating candidates to be elected as provided in this section. Such caucus shall have the right to establish, by majority vote, rules for the conduct of the following tribal election, providing that such rules do not violate the constitutional rights of any person. The commissioner shall give notice of the time and place, 7 days before the day of election, by posting notices thereof in some conspicuous place on the reservations at Pleasant Point and Peter Dana Point. Said commissioner or his authorized representative, shall receive, sort and count the votes given in said election, in the presence of members of the tribe, and those elected shall be given certificates therefor, except that no certificate of election shall be issued less than 10 days after the election.

On the written application of a candidate in said election within 7 days after election day, the commissioner shall permit him or his counsel to recount the ballots under proper protective regulations. Upon the receipt of

the application, the commissioner shall send written notice of the recount to the candidates for the office in question, stating the time and place of the recount. The commissioner or his authorized representative shall preside at the recount and shall segregate any disputed ballots. Ballots may be disputed for any or all of the following reasons: If more names are marked for an office than there are vacancies to be filled; if there are any distinguishing marks on the ballot or if the ballot is marked in such a way as to make the voter's choice impossible to determine.

In no case shall a ballot be disputed solely because of the type of mark used to indicate the voter's choice, and all votes shall be counted where the voter's intention can be clearly seen and no other reason for challenging the ballot but its type of marking exists. If any mistake was made in counting the ballots on election day, the commissioner shall correct his tabulation. If the corrected tabulation changes the result declared on election day, the commissioner shall declare the winner as determined by the recount. The commissioner shall issue his certificate of election to the winner of a recount, unless within 4 days of the said recount, the loser appeals its result in writing to the Governor and Council of the State of Maine, addressed to the Secretary of State. In all cases the determination of the winner by the Governor and Council shall be final.

STATEMENT OF FACT

The present biennial election law in section 4831 does not provide for removal of tribal officers, nor for caucuses, nor for recounts in case of close elections. Experience has shown a need to correct these deficiencies and this bill seeks to accomplish this.