

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 325

H. P. 243 House of Representatives, January 23, 1973
Referred to the Committee on Human Resources. Sent up for concurrence
and ordered printed.

E. LOUISE LINCOLN, Clerk
Presented by Mrs. Murchison of Mattawamkeag.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-THREE

AN ACT Relating to Tribal Elections, Governor and Council
of the Penobscot Tribe of Indians.

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

Sec. 1. R. S., T. 22, § 4792, repealed and replaced. Section 4792 of Title 22 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 4792. Penobscot tribal elections

1. Elections. Biennially, on the even-numbered years, on the 2nd Tuesday in September, the Penobscot Indians shall hold their election for the choice of governor and lieutenant governor of said tribe and a representative at the Legislature of this State, and members of a tribal council, each of whom must be at least 18 years of age. Only certified members of the tribe who are 18 years of age or older shall be eligible to vote.

2. Caucus. On the first Tuesday of August biennially on the even-numbered years and to fill any vacancies arising in the interim, the Penobscot 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.

3. Notice; votes; recount. The commissioner shall give notice of the time and place, 7 days before the day of election, by posting notices thereof, one at his office and one or more others in conspicuous places on Old Town Indian Island. The commissioner or his authorized representative shall receive, sort and count the votes given in at said election, in the presence of

the members of the tribe, and shall give to those elected certificates thereof, 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.

Sec. 2. R. S., T. 22, § 4793, additional. Title 22 of the Revised Statutes is amended by adding a new section 4793, to read as follows:

§ 4793. Governor and council

The governor, lieutenant governor and representative at the Legislature of the Penobscot Tribe of Indians 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.

The council of the Penobscot Tribe of Indians shall consist of 12 members elected for 4 years, chosen in the following manner. At the election of September 8, 1970, 12 members shall be elected to said tribal council. The 6 members receiving the highest number of votes in the 1970 election shall hold office for 4 years and the remaining 6 members shall hold office for 2 years, commencing on October 1, 1970, unless removed as provided, or resigned. In each subsequent election thereafter, 6 members of said tribe shall be elected to said tribal council and shall hold office for 4 years, commencing on the first day of October in the even-numbered years, or until their successors are elected. Biennially on the first day of October in the even-numbered years, all correspondence, records, files and other materials pertaining to Penobscot tribal government and tribal activities shall be turned over to the newly elected tribal governor by the former tribal officials.

The governor 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. Seven members of said council shall constitute a quorum thereof for the purpose of conducting the affairs of the tribe and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Tribal council members who are not in attendance at 3 successive tribal council meetings, or at 5 tribal council meetings during a 12-month period, shall be removed from said council by the governor, with the advice and consent of the council. Each council member must be given at least 24 hours advance notice of said meetings by the governor. The governor may excuse tribal council members from attendance at tribal council meetings in advance of such meetings for health or other personal reasons. Such excused absences shall not be counted as absences.

Whenever any vacancy occurs in the office of governor, lieutenant governor, council and representative at the Legislature, there shall be a special election called by the commissioner within 60 days to fill such vacancy. The governor, lieutenant governor, council and representative at the Legislature may be removed from office by a petition showing charges and signed by a number of registered voters equal to at least a majority of the number of votes cast for tribal governor at the next preceding tribal election, and the petition is presented in writing to the governor, lieutenant governor, council and representative at the Legislature in a formal hearing called by the commissioner, and thereupon such petition shall be acted upon, provided that a majority of the persons legally registered to vote at the next preceding tribal election are present. Tribal members who have been convicted of a felony shall not be permitted to hold any tribal office, either elective or appointive.

The tribal governor shall call a general meeting of the tribe for the purpose of affirming or rejecting legislative proposals prepared by the tribal governor and council for submission to the State Legislature. Notice of the time and place of the general meeting shall be posted 7 or more days before said meeting day at the office of the tribal governor and one conspicuous place on Old Town Island. Legislative proposals that have received an affirmative vote of a majority of those present and voting at the general meeting of the tribe shall be given to the tribal representative to the State Legislature for submission to the State Legislature. No private organization, church organization, state department, civic group or individual shall submit legislation affecting the Penobscot Tribe of Indians to the State Legislature without first bringing it before the Penobscot governor and council for approval.

STATEMENT OF FACT

This legislation breaks section 4792 into 2 sections 4792 and 4793, thus putting all material pertaining to Penobscot elections into the first section and that pertaining to governmental functions into the second. In addition, new material is added to provide for recounts in disputed elections. There have been 3 recounts in the last 10 years in Penobscot tribal elections. A number of problems have resulted and this legislation is offered to correct these problems.