

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44

STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1218, L.D. 1776, Bill, "An Act Concerning Indian Territory under the Maine Indian Claims Settlement Laws"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 12 MRSA c. 206-A, sub-c. V is enacted to read:

SUBCHAPTER V

PASSAMAQUODDY AND PENOBSCOT INDIAN TERRITORIES

§691. Legislative intent; definition; application

It is the intent of the Legislature that this subchapter clarify the process by which the Passamaquoddy Tribe and the Penobscot Nation may exercise the general powers and duties of a municipality granted under Title 30, section 6206, subsection 1, consistent with the Act to Implement the Maine Indian Claims Settlement, as those powers and duties pertain to land use regulation and natural resource protection within trust lands acquired in unorganized territories. For the purposes of this subchapter, the term "trust lands" is defined as Passamaquoddy Indian territory lands under Title 30, section 6205, subsection 1, paragraph B, and Penobscot Indian territory lands under Title 30, section 6205, subsection 2, paragraph B.

Nothing in this subchapter may be construed to apply to lands within the Passamaquoddy Indian Reservation, as defined in Title 30, section 6203, subsection 5, or the Penobscot Indian Reservation, as defined in Title 30, section 6203, subsection 8.

2 §692. Procedure

4 The Passamaquoddy Tribe and the Penobscot Nation may each
6 submit a comprehensive land use plan and implementing ordinances
8 to the joint standing committee of the Legislature having
10 jurisdiction over natural resources matters, referred to in this
12 chapter as the "committee." Except for trust lands previously
14 affected by this subchapter, the plan and ordinances must include
16 all trust lands held by the Passamaquoddy Tribe or the Penobscot
18 Nation on the date the plan is submitted.

20 1. Submission criteria. Submission of a plan by the
22 Passamaquoddy Tribe or the Penobscot Nation is not complete until
24 one complete plan, including all maps and implementing land use
26 ordinances, is submitted to:

28 A. Each member of the committee; and

30 B. The Executive Director of the Legislative Council.

32 2. Public hearing. Within 120 days after the submission of
34 a plan is complete, the committee shall conduct at least one
36 public hearing on the plan. Notice of a hearing or hearings held
38 pursuant to this subchapter must be given according to the
40 provisions of Title 5, section 8053, subsection 5.

42 3. Decision. The committee shall determine whether the
44 plan meets the criteria established in this subsection. The
46 committee shall vote to accept the plan if, when taking into
48 consideration the values and objectives of the tribe, the
50 committee determines that the plan:

A. Demonstrates principles of sound planning, zoning and
subdivision control in the affected areas;

B. Preserves public health, safety and general welfare;

C. Prevents inappropriate residential, recreational,
commercial and industrial uses detrimental to the proper use
or value of these areas;

D. Prevents the intermixing of incompatible industrial,
commercial, residential and recreational activities;

E. Provides for appropriate residential, recreational,
commercial and industrial uses;

F. Prevents development of substandard structures or
structures located unduly proximate to waters or roads;

2 G. Prevents despoliation, pollution and inappropriate use
3 of the water in these areas;

4 H. Preserves the ecological and natural values of the
5 affected lands and surrounding areas; and

6 I. Otherwise conforms to environmental, land use and
7 resource protection laws applicable to a municipality as
8 provided in the Act to Implement the Maine Indian Claims
9 Settlement.

10 In making its determination under this subsection, the committee
11 may request technical assistance from appropriate agencies of
12 State Government, including the Maine Land Use Regulation
13 Commission, the Department of Environmental Protection and the
14 Indian Tribal-State Commission, and may seek legal advice from
15 the Attorney General.

16 **§693. Report of the committee.**

17 Subsequent to the conclusion of the committee's review of a
18 plan submitted under this subchapter, but not later than the next
19 regular session of the Legislature, the committee shall recommend
20 to the Legislature whether the plan should be approved.

21 **§694. Effective date**

22 After the effective date of a resolve enacted by the
23 Legislature that approves a plan submitted pursuant to this
24 subchapter, the Maine Land Use Regulation Commission has no
25 jurisdiction over trust lands governed by that plan and the
26 implementing ordinances, provided that the adoption of the
27 approved plan and ordinances by the Passamaquoddy Tribe or the
28 Penobscot Nation is certified to the Secretary of State according
29 to the certification procedures established in Title 3, section
30 601 and the plan and ordinances are administered and enforced by
31 the Passamaquoddy Tribe or the Penobscot Nation.

32 **Sec. 2. Effective date.** This Act does not take effect unless,
33 within 60 days after adjournment of the Legislature, the
34 Secretary of State receives written notification from the Joint
35 Tribal Council of the Passamaquoddy Tribe and from the governor
36 and the council of the Penobscot Nation that that tribe and that
37 nation have agreed to the provisions of this Act pursuant to 25
38 United States Code, section 1725(e)(1). Copies of that
39 notification must be submitted by the Secretary of State to the
40 Secretary of the Senate and the Clerk of the House of
41 Representatives. In no event may this Act become effective until
42 90 days after adjournment of the Legislature.'

2
4
STATEMENT OF FACT

6 This amendment replaces the bill. The amendment clarifies
8 the process by which the Passamaquoddy Tribe and the Penobscot
10 Nation may exercise the general powers and duties of a
12 municipality granted under Title 30, section 6206, subsection 1,
consistent with the Act to Implement the Maine Indian Claims
Settlement, as those powers and duties pertain to land use
regulation and natural resource protection within trust lands
acquired in unorganized territories.

14 Under this amendment, the Passamaquoddy Tribe and the
16 Penobscot Nation may each submit a comprehensive plan and
implementing ordinances to the joint standing committee of the
18 Legislature having jurisdiction over energy and natural resources
20 matters. Subsequent to receiving a plan, the committee is
22 required to hold at least one public hearing and to recommend to
24 the Legislature whether or not the plan should be approved. Upon
approval of the plan by the Legislature, the trust lands
governed by the plan and ordinances are not within the
jurisdiction of the Maine Land Use Regulation Commission.

Reported by the Majority of the Committee on Judiciary
Reproduced and distributed under the direction of the Clerk of the
House
3/16/92 (Filing No. H-1125)