

MAINE STATE LEGISLATURE

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Date: 4-11-21

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REPORT A
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STATE OF MAINE
HOUSE OF REPRESENTATIVES
130TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 662, L.D. 906, "An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. P&SL 1983, c. 25, §15 is repealed.

Sec. 2. 30 MRSA §6205, sub-§1, ¶D-2, as amended by PL 2021, c. 139, §1 and affected by §3, is further amended to read:

D-2. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Centerville conveyed by Bertram C. Tackeff to the Passamaquoddy Tribe by quitclaim deed dated May 4, 1982, recorded in the Washington County Registry of Deeds in Book 1178, Page 35, to the extent that the land is not held in common with any other person or entity and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe; ~~and~~

Sec. 3. 30 MRSA §6205, sub-§1, ¶E, as amended by PL 2021, c. 139, §1 and affected by §3, is further amended to read:

E. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Township 21 consisting of Gordon Island in Big Lake, conveyed by Domtar Maine Corporation to the Passamaquoddy Tribe by corporate quitclaim deed dated April 30, 2002, recorded in the Washington County Registry of Deeds in Book 2624, Page 301, to the extent that the land is not held in common with any other person or entity and is certified by the secretary as held for the benefit of the Passamaquoddy Tribe; and

Sec. 4. 30 MRSA §6205, sub-§1, ¶F is enacted to read:

F. Land acquired by the secretary for the benefit of the Passamaquoddy Tribe in Perry consisting of:

COMMITTEE AMENDMENT

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1 (1) Land conveyed by Denise E. Plouffe to the Passamaquoddy Tribe by quitclaim
2 deed dated October 5, 2017, recorded in the Washington County Registry of Deeds
3 in Book 4403, Pages 18 and 19; and

4 (2) Land conveyed by Austin Humphries to the Passamaquoddy Tribe by deed
5 dated November 18, 1983, recorded in the Washington County Registry of Deeds
6 in Book 1252, Pages 93 to 95.

7 Notwithstanding subsection 5 and any other provision of this Act to the contrary, the
8 addition of land to the Passamaquoddy Indian territory pursuant to this paragraph is not
9 subject to approval by any city, town, village or plantation within the State.

10 **Sec. 5. 30 MRSA §6206, sub-§1**, as enacted by PL 1979, c. 732, §§1 and 31, is
11 amended to read:

12 **1. General Powers powers.** Except as otherwise provided in this Act, the
13 Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories,
14 shall have, exercise and enjoy all the rights, privileges, powers and immunities, including,
15 but without limitation, the power to enact ordinances and collect taxes, and shall be subject
16 to all the duties, obligations, liabilities and limitations of a municipality of and subject to
17 the laws of the State, provided, however, that internal tribal matters, including membership
18 in the respective tribe or nation, the right to reside within the respective Indian territories,
19 tribal organization, tribal government, tribal elections ~~and~~, the use or disposition of
20 settlement fund income and the exercise of power pursuant to section 6207, subsection 10,
21 section 6207-A and section 6209-A, subsection 1, paragraph F shall not be subject to
22 regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall
23 designate such officers and officials as are necessary to implement and administer those
24 laws of the State applicable to the respective Indian territories and the residents thereof.
25 Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who
26 is not a member of the respective tribe or nation nonetheless shall be equally entitled to
27 receive any municipal or governmental services provided by the respective tribe or nation
28 or by the State, except those services which are provided exclusively to members of the
29 respective tribe or nation pursuant to state or federal law, and shall be entitled to vote in
30 national, state and county elections in the same manner as any tribal member residing
31 within Indian territory.

32 **Sec. 6. 30 MRSA §6207**, as amended by PL 1997, c. 739, §12 and affected by §§13
33 and 14, is further amended by amending the section headnote to read:

34 **§6207. Regulation of ~~fish and wildlife~~ natural resources**

35 **Sec. 7. 30 MRSA §6207, sub-§1**, as enacted by PL 1979, c. 732, §§1 and 31, is
36 amended to read:

37 **1. Adoption of hunting, trapping and fishing ordinances by the tribe or nation.**
38 Subject to the limitations of subsection 6, the Passamaquoddy Tribe and the Penobscot
39 Nation each shall have exclusive authority within their respective Indian territories to
40 ~~promulgate and~~ enact ordinances regulating:

- 41 A. Hunting, trapping or other taking of wildlife; and
- 42 B. Taking of fish on any pond in which all the shoreline and all submerged lands are
- 43 wholly within Indian territory and which is less than 10 acres in surface area.

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Such ordinances shall be equally applicable, on a nondiscriminatory basis, to all persons regardless of whether such person is a member of the respective tribe or nation provided, however, that subject to the limitations of subsection 6, such ordinances may include special provisions for the sustenance of the individual members of the Passamaquoddy Tribe or the Penobscot Nation. In addition to the authority provided by this subsection, the Passamaquoddy Tribe and the Penobscot Nation, subject to the limitations of subsection 6, may exercise within their respective Indian territories all the rights incident to ownership of land under the laws of the State.

Sec. 8. 30 MRSA §6207, sub-§10 is enacted to read:

10. Regulation of drinking water. Unless the Passamaquoddy Tribe, in its discretion, enters into an intergovernmental agreement authorizing the State to exercise concurrent jurisdiction over specific drinking water-related issues within the Passamaquoddy Indian territory:

A. The Passamaquoddy Tribe has exclusive authority to enact ordinances regulating drinking water within Passamaquoddy Indian territory;

B. The State may not exercise primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Passamaquoddy Indian territory; and

C. The Passamaquoddy Tribe may seek to be treated as a state and to obtain primary enforcement authority from the United States Environmental Protection Agency to implement the federal Safe Drinking Water Act and its implementing regulations, as amended, within the Passamaquoddy Indian territory.

Sec. 9. 30 MRSA §6207-A is enacted to read:

§6207-A. Jurisdiction of the Passamaquoddy Tribe over drinking water within the Passamaquoddy Indian territory

Notwithstanding any provision of state law to the contrary, pursuant to the federal Maine Indian Claims Settlement Act of 1980, Public Law 96-420, Section 6(e)(1), the State and the Passamaquoddy Tribe agree and establish that:

1. Jurisdiction of Passamaquoddy Tribe to administer drinking water-related programs. The Passamaquoddy Tribe may seek to be treated as a state pursuant to the federal Safe Drinking Water Act, 42 United States Code, Section 300j-11, and its implementing regulations, as amended, within the Passamaquoddy Indian territory and may otherwise benefit from and exercise jurisdiction under any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs; and

2. Administration of drinking water-related programs does not affect or preempt state law. The application of any provision of the federal Safe Drinking Water Act and its implementing regulations, as amended, and of any other federal law enacted after October 10, 1980 that permits a federally recognized Indian tribe to administer drinking water-related programs, and the enforcement of such laws and regulations by the Passamaquoddy Tribe under subsection 1 does not affect or preempt the laws of the State.

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Sec. 10. 30 MRS §6209-A, sub-§1, ¶D, as enacted by PL 1995, c. 388, §6 and affected by §8, is amended to read:

D. Indian child custody proceedings to the extent authorized by applicable federal law; ~~and~~

Sec. 11. 30 MRS §6209-A, sub-§1, ¶E, as amended by PL 2009, c. 384, Pt. E, §1 and affected by §3, is further amended to read:

E. Other domestic relations matters, including marriage, divorce and support, between members of the Passamaquoddy Tribe, the Houlton Band of Maliseet Indians or the Penobscot Nation, both of whom reside within the Indian reservation of the Passamaquoddy Tribe; ~~and~~

Sec. 12. 30 MRS §6209-A, sub-§1, ¶F is enacted to read:

F. Notwithstanding any other provision of this subsection, civil and criminal actions regarding the enforcement of ordinances enacted pursuant to section 6207, subsection 10.

Sec. 13. Contingent effective date; certification. This Act does not take effect unless, within 60 days after adjournment of the Second Regular Session of the 130th Legislature, the Secretary of State receives written certification by the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act, copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House of Representatives and the Revisor of Statutes.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment strikes and replaces the bill, which is a concept draft. The intent of this amendment is to improve access to safe drinking water for the Passamaquoddy Tribe at Pleasant Point and surrounding communities. The amendment exempts the property of the Passamaquoddy Water District, which is a nontribal entity, from taxation by municipal governments. It also authorizes 2 parcels of tribally owned fee land in close proximity to the existing Passamaquoddy Indian territory to be added to the tribe's Indian territory through the federal trust acquisition process, without local approval, in order to provide access to alternate supplies of groundwater. Finally, it provides that the United States Environmental Protection Agency, and not the State, has the primary authority to regulate drinking water standards within Passamaquoddy Indian territory. If the Passamaquoddy Tribe chooses to do so, it may seek authority from the United States Environmental Protection Agency to regulate drinking water standards within Passamaquoddy Indian territory to the extent permitted under federal law.

FISCAL NOTE REQUIRED

(See attached)

COMMITTEE AMENDMENT



130th MAINE LEGISLATURE

LD 906

LR 1056(02)

An Act To Provide Passamaquoddy Tribal Members Access to Clean Drinking Water

Fiscal Note for Bill as Amended by Committee Amendment *A.H-984*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Current biennium revenue decrease - Municipalities

Fiscal Detail and Notes

Repealing Private and Special Law 1983, c. 25, Section 15 would exempt property of the Passamaquoddy Water District from property taxes and lead to a loss of municipal property tax revenue. No estimate of the loss has been made at this time.