

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST SPECIAL SESSION-2023

Legislative Document

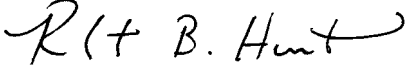
No. 1835

H.P. 1167

House of Representatives, April 27, 2023

An Act to Require the State to Notify Indian Tribes and Indian Nations When New Laws Are Enacted That Need to Be Certified

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Speaker TALBOT ROSS of Portland.
Cosponsored by Senator BENNETT of Oxford and
Representatives: DANA of the Passamaquoddy Tribe, FAULKINGHAM of Winter Harbor,
MOONEN of Portland, RECKITT of South Portland, Senators: BAILEY of York, CARNEY
of Cumberland.

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

2 **Sec. 1. 3 MRSA §602**, as amended by PL 1985, c. 672, §§1 and 4, is further amended
3 to read:

4 **§602. Designation of officer**

5 The governor and council of the Penobscot Nation, the Joint Tribal Council of the
6 Passamaquoddy Tribe and the council of the Houlton Band of Maliseet Indians shall each
7 designate, by name and title, the officer authorized to execute the certificate of approval of
8 legislation required by section 601 and to execute the certificate of approval or to
9 communicate the tribal government's denial of certification and any request for tribal-state
10 consultation pursuant to Title 5, section 11057. The designation ~~shall~~ must be in writing
11 and filed with the Secretary of State no later than the first Wednesday in January in the
12 First Regular Session of the Legislature, except that the designation for the Houlton Band
13 of Maliseet Indians must be filed with the Secretary of State no later than 45 days after
14 adjournment of the Second Regular Session of the 112th Legislature. The Secretary of
15 State shall forthwith transmit certified copies of each designation to the Secretary of the
16 Senate and the Clerk of the House of Representatives. The designation ~~shall remain~~
17 remains in effect until the governor and council of the Penobscot Nation, the Joint Tribal
18 Council of the Passamaquoddy Tribe or the council of the Houlton Band of Maliseet
19 Indians ~~make~~ makes a new designation.

20 **Sec. 2. 3 MRSA §603**, as enacted by PL 1989, c. 148, §§2 and 4, is amended to
21 read:

22 **§603. Designation of officer; ~~Aroostook Band of Miamaes~~ Mi'kmaq Nation**

23 The council of the ~~Aroostook Band of Miamaes~~ Mi'kmaq Nation shall designate, by
24 name and title, the officer authorized to execute the certificate of approval of legislation
25 required by section 601 and to execute the certificate of approval or to communicate the
26 council's denial of certification and any request for tribal-state consultation pursuant to
27 Title 5, section 11057. The designation ~~shall~~ must be in writing and filed with the Secretary
28 of State no later than the first Wednesday in January in the First Regular Session of the
29 Legislature. The Secretary of State shall forthwith transmit certified copies of the
30 designation to the Secretary of the Senate and the Clerk of the House of Representatives.
31 The designation ~~shall remain~~ remains in effect until the council of the ~~Aroostook Band of~~
32 Miamaes Mi'kmaq Nation makes a new designation.

33 **Sec. 3. 5 MRSA §11057** is enacted to read:

34 **§11057. Process for certification of legislation by Indian tribe**

35 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
36 following terms have the following meanings.

37 A. "Date of enactment" means the date that the Governor signs the legislation, the date
38 that the unsigned legislation has the same force and effect pursuant to the Constitution
39 of Maine, Article IV, Part Third, Section 2 as if the Governor had signed it or the date
40 that the Governor's veto of the legislation is overridden.

41 B. "Legislation" means a public law, a private and special law or a resolve.

1 **2. Designation of officer.** The officer designated by the governor and council of the
2 Penobscot Nation, the Joint Tribal Council of the Passamaquoddy Tribe or the council of
3 the Houlton Band of Maliseet Indians under Title 3, section 602 or by the council of the
4 Mi'kmaq Nation under Title 3, section 603 is authorized to execute a certification of
5 approval of legislation and to communicate the relevant tribal government's denial of
6 certification and any request for tribal-state consultation as described in this section.

7 **3. Approval required.** Whenever legislation is enacted that expressly references or
8 applies to the Penobscot Nation, the Passamaquoddy Tribe, the Houlton Band of Maliseet
9 Indians, the Mi'kmaq Nation or one or more federally recognized Indian tribes within the
10 State or members of those Indian tribes, the legislation may not take effect without the
11 approval of the tribal government of the affected Indian tribe. When approval of legislation
12 by an Indian tribe is required by this subsection, certification of that approval must be made
13 to the Secretary of State by the officer of the affected Indian tribe designated under
14 subsection 2.

15 **4. Notice.** Except as provided in subsection 5, within 45 days after final adjournment
16 of a legislative session, the Secretary of State shall notify each officer designated under
17 subsection 2 of each item of legislation enacted during the legislative session that will not
18 take effect unless the Secretary of State receives written certification from the officer
19 designated under subsection 2 that the tribal government approves of the provisions of that
20 legislation. The notice must inform the officer of the process and deadline under subsection
21 6 for submitting for each item of legislation a certificate of approval or for submitting a
22 certificate of disapproval with or without a request for tribal-state consultation.

23 **5. Emergency legislation.** The Secretary of State shall notify each officer designated
24 under subsection 2 within 45 days after the date of enactment of legislation that was enacted
25 or finally passed as an emergency measure pursuant to the Constitution of Maine, Article
26 IV, Part Third, Section 16 and that will not take effect unless the Secretary of State receives
27 written certification from the officer that the tribal government approves of the provisions
28 of the legislation. The notice must inform the officer of the process and deadline under
29 subsection 6 for submitting a certificate of approval or for submitting a certificate of
30 disapproval with or without a request for tribal-state consultation.

31 **6. Deadline; content and effect of certificate of approval or disapproval.** Within
32 60 days of receipt of the notice from the Secretary of State under subsection 4 or 5, the
33 officer designated under subsection 2 shall provide to the Secretary of State the tribal
34 government's certificate of approval or disapproval. A certificate of disapproval may be
35 accompanied by a request for tribal-state consultation pursuant to subsection 7. A
36 certificate of approval or disapproval must include the date and manner of the tribal
37 government's approval or disapproval of the legislation and is prima facie evidence of
38 approval or disapproval, respectively. Failure of the Secretary of State to receive a
39 certificate of approval or disapproval within the time frame established in this subsection
40 is prima facie evidence of disapproval. Upon receipt of a certificate of approval or
41 disapproval, the Secretary of State shall transmit certified copies of the certificate to the
42 Secretary of the Senate and the Clerk of the House of Representatives. Upon receipt of a
43 request for tribal-state consultation, the Secretary of State shall transmit certified copies of
44 the request to the Governor, the Secretary of the Senate and the Clerk of the House of
45 Representatives.

