By:  Zwiener H.B. No. 3958

A BILL TO BE ENTITLED

AN ACT

relating to state acknowledgment of Native American tribes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Subtitle E, Title 4, Government Code, is amended by adding Chapter 463 to read as follows:

CHAPTER 463. STATE ACKNOWLEDGMENT OF NATIVE AMERICAN TRIBES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 463.001.  DEFINITIONS. In this chapter:

(1)  "Autonomous" means exercising political influence or authority independent of the control of any other Native American governing entity. The term must be understood in the context of the history, geography, culture, and social organization of a petitioner.

(2)  "Commission" means the Texas Historical Commission.

(3)  "Community" means any group of people that can demonstrate that consistent interactions and significant social relationships exist within its membership and that its members are differentiated from and identified as distinct from nonmembers. The term must be understood in the context of the history, geography, culture, and social organization of a petitioner.

(4)  "Continuously" or "continuous" means extending from first sustained contact with non-indigenous Americans throughout a group's history to the present, substantially without interruption.

(5)  "Documented petition" means the detailed arguments made by a petitioner to substantiate its claim to continuous existence as a Native American tribe, together with the factual exposition and all documentary evidence necessary to demonstrate that these arguments address the mandatory criteria in Subchapter D.

(6)  "Historically," "historical," or "history" for purposes of this chapter means the period dating from first sustained contact with non-indigenous Americans.

(7)  "Native American group" means a Native American aggregation in the United States.

(8)  "Native American tribe" or "tribe" means a Native American tribe, band, pueblo, village, or community in the United States that the United States secretary of the interior acknowledges to exist as an Indian tribe.

(9)  "Indigenous" means native to this state in that at least part of the petitioner's territory at the time of first sustained contact with non-indigenous Americans extended into what is now this state.

(10)  "Informed party" means a person, other than an interested party, who requests an opportunity to submit comments or evidence or requests to be kept informed of general actions regarding a specific petitioner.

(11)  "Interested party" means a person who can establish a legal, factual, or property interest in an acknowledgment determination and who requests an opportunity to submit comments or evidence or requests to be kept informed of general actions regarding a specific petitioner. The term includes the Texas Historical Commission and attorney general and may include local governments and any recognized Native American tribes or unrecognized Native American groups that might be affected by an acknowledgment determination.

(12)  "Letter of intent" means a letter or resolution without supporting documentation by which a Native American group requests acknowledgment as a Native American tribe under this chapter and expresses its intent to submit a documented petition.

(13)  "Member of a Native American group" means an individual who is recognized by a Native American group as meeting its membership criteria and who consents to being listed as a member of that group.

(14)  "Member of a Native American tribe" means an individual who meets the membership requirements of the tribe as set forth in its governing document or, in the absence of such a document, has been recognized as a member collectively by those persons constituting the tribal governing body and has consistently maintained tribal relations with the tribe or is listed on any tribal rolls.

(15)  "Petitioner" means an entity that has submitted a letter of intent to the Texas Historical Commission requesting acknowledgment that it is a Native American tribe.

(16)  "Political influence or authority" means a tribal council, leadership, internal process, or other mechanism that a group has used to influence or control the behavior of its members in significant respects, to make decisions for the group that substantially affect its members, or to represent the group in dealing with nonmembers in matters of consequence. This process is to be understood in the context of the history, culture, and social organization of a petitioner.

(17)  "Tribal relations" means participation by an individual in a political and social relationship with a Native American tribe.

(18)  "Tribal roll" means a list of members of a Native American group or tribe.

Sec. 463.002.  APPLICABILITY; ELIGIBILITY. This chapter applies only to Native American groups indigenous to this state:

(1)  that can establish a substantially continuous tribal existence; and

(2)  that have functioned as autonomous entities throughout history until the present.

Sec. 463.003.  EXEMPTION. This chapter does not apply to:

(1)  a Native American group indigenous to this state that was previously acknowledged as a Native American or Indian tribe of this state as of September 1, 2009;

(2)  Native American groups acknowledged by and receiving benefits from the federal Bureau of Indian Affairs as Indian tribes, bands, or communities;

(3)  associations, organizations, corporations, or groups of any character that have been formed in recent times, except that a Native American group that meets the criteria in Subchapter D and that has recently incorporated or otherwise formalized its existing autonomous political process will be viewed as having changed its form in a manner that has no bearing on the state's final determination under this chapter;

(4)  splinter groups, political factions, communities, or groups of any character that separate from the main body of a currently acknowledged Native American tribe, except for a group that can establish clearly that it has functioned throughout history until the present as an autonomous tribal entity, even though it has been regarded by some as a chapter of or has been associated in some manner with an acknowledged North American tribe;

(5)  groups that previously petitioned and were denied state acknowledgment under this chapter, including reorganized or reconstituted petitioners that were previously denied, or splinter groups, spin-offs, or component groups of any type that were once part of a petitioner that was previously denied; or

(6)  persons who are the subject of a state statute that has expressly terminated or forbidden acknowledgement by the state as a Native American tribe.

[Sections 463.004-463.050 reserved for expansion]

SUBCHAPTER B. GENERAL POWERS AND DUTIES OF THE COMMISSION AND PETITIONERS

Sec. 463.051.  LIST OF STATE-ACKNOWLEDGED TRIBES. At least once every three years, the commission shall publish in the Texas Register a list of all Native American tribes acknowledged by the state under this chapter.

Sec. 463.052.  AVAILABILITY OF GUIDELINES. (a) Not later than January 1 of each odd-numbered year, the commission shall make available revised and expanded guidelines for the preparation of documented petitions.

(b)  The guidelines must include:

(1)  an explanation of the criteria and other provisions of this chapter;

(2)  a discussion of the types of evidence that may be used to demonstrate particular criteria are met;

(3)  an example of a documented petition; and

(4)  general suggestions and guidelines on how and where to conduct research.

(c)  The guidelines may be supplemented or updated as necessary. The example of a documented petition format, while preferable for use in a documented petition, does not preclude the use of any other format.

Sec. 463.053.  ADVICE FOR PETITIONERS. (a) The commission shall, on request, provide petitioners with suggestions and advice regarding preparation of a documented petition.

(b)  The state is not responsible for performing research on behalf of a petitioner.

Sec. 463.054.  NOTICE IN TEXAS REGISTER; MAILING NOTICE. Any notice that under this chapter must be published in the Texas Register shall also be mailed to the petitioner and to other interested parties on request.

Sec. 463.055.  FILING LETTER OF INTENT. (a) A Native American group in this state that wishes to be acknowledged a Native American tribe by this state and believes it can satisfy the criteria prescribed by Subchapter D may file a letter of intent with the commission. The letter must be dated and signed by the governing body of the Native American group.

(b)  A letter of intent may be filed with or before a group's documented petition is filed.

Sec. 463.056.  CONTACT AFTER LETTER OF INTENT. After a Native American group has filed a letter of intent requesting state acknowledgment as a Native American tribe and until that group has actually submitted a documented petition, the commission may contact the group periodically and request clarification, in writing, of its intent to continue with the petitioning process.

Sec. 463.057.  DISTRIBUTION OF LAW. Not later than January 1 of each odd-numbered year, the commission shall provide a copy of this chapter to each person that has submitted a documented petition or a letter of intent.

[Sections 463.058-463.100 reserved for expansion]

SUBCHAPTER C. DOCUMENTED PETITION PROCEDURE

Sec. 463.101.  FORM OF PETITION. (a) A documented petition may be submitted to the commission in any readable form that contains detailed, specific evidence to support a request to the commission to acknowledge tribal existence.

(b)  The documented petition must include a certification that is signed and dated by members of the group's governing body and states that it is the group's official documented petition.

Sec. 463.102.  CONTENT OF PETITION. (a) The documented petition must demonstrate that the petitioner satisfies the criteria prescribed by Subchapter D.

(b)  The documented petition must include thorough explanations and supporting documentation for each criterion and must use and demonstrate an understanding of applicable definitions contained in Section 463.001.

Sec. 463.103.  GOVERNING DOCUMENT OR PROCEDURES; MEMBERSHIP CRITERIA. The petition must include a copy of the group's present governing document, including its membership criteria. In the absence of a written document, the petitioner must provide a statement describing in full its membership criteria and current governing procedures.

Sec. 463.104.  MEMBERSHIP LIST; STATEMENT. (a) The petition must include a copy of the group's official membership list, separately certified by the group's governing body. The list must include all known current members of the group.

(b)  The list must include each member's:

(1)  full name, including any maiden name;

(2)  date of birth; and

(3)  current residential address.

(c)  The petitioner must also provide:

(1)  a copy of each available former list of persons who were members based on the group's own defined criteria;

(2)  a statement describing the circumstances surrounding the preparation of the current list; and

(3)  to the extent possible, the circumstances surrounding the preparation of former lists.

Sec. 463.105.  FORMS OF EVIDENCE FOR PETITION. The specific forms of evidence listed together with the criteria prescribed by Subchapter D are not mandatory forms of evidence. The criteria may be met alternatively by any suitable evidence that demonstrates that the petitioner meets the criteria.

Sec. 463.106.  STANDARDS FOR REVIEWING PETITION. (a) The commission shall consider a criterion satisfied by a petition if the available evidence establishes a reasonable likelihood that the criterion has been met. Conclusive proof of the facts relating to a criterion is not required for the criterion to be considered met.

(b) The commission shall take into account:

(1)  historical situations and periods for which evidence is demonstrably limited or not available; and

(2)  limitations inherent in demonstrating the historical existence of community and political influence or authority.

(c)  Existence of community and political influence or authority must be demonstrated on a substantially continuous basis, not at every point in time.

(d)  The commission may not deny an acknowledgment based on fluctuations in tribal activity during the years.

(e)  The commission shall interpret the criteria prescribed by Subchapter D as applying to tribes or groups that have historically combined and functioned as a single autonomous political entity.

Sec. 463.107.  DENIAL OF PETITION. The commission may deny a petition:

(1)  if the evidence available demonstrates that the petitioner does not meet one or more of the criteria; or

(2)  if there is insufficient evidence that the petitioner meets one or more of the criteria.

[Sections 463.108-463.150 reserved for expansion]

SUBCHAPTER D. MANDATORY CRITERIA FOR STATE ACKNOWLEDGMENT

Sec. 463.151.  IDENTIFICATION AS NATIVE AMERICAN ENTITY. (a) The petitioner must be identified as a Native American entity on a substantially continuous basis since 1900.

(b)  Evidence that the group's character as a Native American entity has from time to time been denied is not conclusive evidence that this criterion has not been met.

(c)  Evidence that may be considered in determining a group's Native American identity may include:

(1)  evidence of the group's:

(A)  identification as a Native American entity by state authorities;

(B)  relationships with colonists or governments based on identification of the group as Native American, including the governments of Spain, France, Mexico, or Texas;

(C)  dealings with a county or other local government in a relationship based on the group's Native American identity;

(D)  identification as a Native American entity by anthropologists, historians, or other scholars;

(E)  identification as a Native American entity in newspapers and books; and

(F)  identification as a Native American entity in relationships with Native American tribes or with national, regional, or state Native American organizations; and

(2)  any other evidence of the group's identification as a Native American entity by other than the petitioner itself or its members.

Sec. 463.152.  DISTINCT COMMUNITY. (a) A predominant portion of the petitioning group must constitute a distinct community and have existed as a community from historical times until the present.

(b)  Evidence that the petitioner meets the definition of community in Section 463.001 includes:

(1)  significant social relationships connecting individual members;

(2)  significant rates of informal social interactions that exist broadly among group members;

(3)  a significant degree of shared or cooperative labor or other economic activity among the membership;

(4)  evidence of strong patterns of discrimination by or other social distinctions made by nonmembers;

(5)  shared sacred or secular ritual activity encompassing most of the group;

(6)  cultural patterns shared among a significant portion of the group that differ in more than symbolic fashion from those of the non-indigenous American populations with whom it interacts, including language, kinship organization, and religious beliefs and practices; and

(7)  the persistence of a named, collective Native American identity continuously over a period of more than 50 years despite any name changes for the group.

(c)  A demonstration of historical political influence under Section 463.153 is evidence demonstrating historical community.

(d)  A petitioner may demonstrate sufficient evidence of community by showing:

(1)  that more than 50 percent of the members reside in a geographical area exclusively or almost exclusively composed of group members, and the balance of the group maintains consistent interaction with some members of the community;

(2)  that at least 50 percent of the group members maintain distinct cultural patterns such as language, kinship organization, or religious beliefs and practices;

(3)  the presence of distinct community social institutions encompassing most of the members, such as kinship organizations, formal or informal economic cooperation, or religious organizations; or

(4)  that the group has met the criterion in Section 463.153 using evidence described in Section 463.153(c).

Sec. 463.153.  POLITICAL INFLUENCE AS AUTONOMOUS ENTITY. (a) The petitioner must have maintained political influence or authority over its members as an autonomous entity from historical times until the present.

(b)  The petitioner may demonstrate that it meets this criterion by showing some combination of the evidence listed below or by other evidence that the petitioner meets the definition of political influence or authority in Section 463.001:

(1)  the group is able to mobilize significant numbers of members and significant resources from its members for group purposes;

(2)  most of the membership considers issues acted on or actions taken by group leaders or governing bodies to be of importance;

(3)  there is widespread knowledge, communication, and involvement in political processes by most of the group's members;

(4)  the group meets the criterion in Section 463.152(d) at more than a minimal level; or

(5)  there are internal conflicts that show controversy over valued group goals, properties, policies, processes, or decisions.

(c)  A petitioner is considered to have provided sufficient evidence to demonstrate the exercise of political influence or authority by demonstrating that group leadership or other mechanisms exist or existed to:

(1)  allocate group resources such as land or residence rights on a consistent basis;

(2)  settle disputes between members or subgroups by mediation or other means on a regular basis;

(3)  exert strong influence on the behavior of individual members, such as the establishment or maintenance of norms and the enforcement of sanctions to direct or control behavior; or

(4)  organize or influence economic subsistence activities among the members, including shared or cooperative labor.

Sec. 463.154.  MEMBERSHIP DESCENDED FROM HISTORICAL NATIVE AMERICAN TRIBE. (a) The petitioner must show that its membership consists of individuals who descend from a historical Native American tribe or from historical Native American tribes that combined and functioned as a single autonomous political entity.

(b)  Evidence sufficient to prove this criterion includes:

(1)  rolls prepared by the commission on a lineal descendant basis for purposes of distributing claims money, providing allotments, or other purposes;

(2)  state, federal, or other official records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity;

(3)  church, school, and other similar enrollment records identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity;

(4)  affidavits of recognition by tribal elders, tribal leaders, or the tribal governing body, identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity; or

(5)  other reliable records or evidence identifying present members or ancestors of present members as being descendants of a historical tribe or tribes that combined and functioned as a single autonomous political entity.

Sec. 463.155.  CRITERION REGARDING MEMBERSHIP IN OTHER ACKNOWLEDGED TRIBES. (a) Except as provided by Subsection (b), the membership of the petitioner must be composed principally of persons who are not members of any North American tribe acknowledged under this chapter or described by Section 463.003(1).

(b)  The petitioner may be acknowledged even if its membership is composed principally of persons whose names have appeared on rolls of, or who have been otherwise associated with, a different and acknowledged Native American tribe, if the petitioner establishes that:

(1)  it has functioned throughout history until the present as a separate and autonomous Native American tribal entity;

(2)  its members do not maintain a bilateral political relationship with the different and acknowledged tribe; and

(3)  its members have provided written confirmation of their membership in the petitioning group.

[Sections 463.156-463.200 reserved for expansion]

SUBCHAPTER E. NOTICE AND PUBLISHING REQUIREMENTS

Sec. 463.201.  RECEIPT OF PETITION; TIMING OF NOTICE. Not later than the 30th day after the date the commission receives a letter of intent, or a documented petition if a letter of intent has not previously been received and noticed, the commission shall acknowledge the receipt in writing to the petitioner and publish notice of the receipt in accordance with this subchapter.

Sec. 463.202.  CONTENT OF NOTICE. (a) The notice published by the commission must include the name, location, and mailing address of the petitioner and any other information necessary to identify the entity submitting the letter of intent or documented petition and the date it was received.

(b)  The notice must also announce the opportunity for interested parties and informed parties to submit factual or legal arguments in support of or in opposition to the petitioner's request for acknowledgment or to request to be kept informed of all general actions affecting the petition.

(c)  The notice must indicate where a copy of the letter of intent and the documented petition may be examined.

Sec. 463.203.  PUBLISHING REQUIRED. (a) The commission shall publish the notice in the Texas Register.

(b)  The commission shall publish the notice and the letter of intent, or the documented petition if a letter of intent has not been previously received, in a major newspaper or newspapers of general circulation in the municipality nearest to the petitioner.

Sec. 463.204.  ADDITIONAL REQUIREMENTS FOR NOTICE TO LEGISLATURE, ATTORNEY GENERAL, AND CERTAIN OTHER PARTIES. The commission shall provide the notice prepared under Section 463.203 to:

(1)  the presiding officer of each house of the legislature;

(2)  the attorney general; and

(3)  any recognized or acknowledged tribe and any other petitioner that appears to have a historical or present relationship with the petitioner or who may otherwise be considered to have a potential interest in the acknowledgment determination.

[Sections 463.205-463.250 reserved for expansion]

SUBCHAPTER F. PROCESSING OF DOCUMENTED PETITION

Sec. 463.251.  GENERAL DUTIES OF THE COMMISSION REGARDING REVIEW. (a) On receipt of a documented petition, the commission shall review the petition to determine whether the petitioner is entitled to be acknowledged as a Native American tribe.

(b)  The commission may initiate other research for any purpose relative to analyzing the documented petition and obtaining additional information about the petitioner's status.

(c)  The commission may consider any evidence submitted by interested parties or informed parties.

Sec. 463.252.  PRELIMINARY TECHNICAL ASSISTANCE REVIEW. (a) Before active consideration of the documented petition, the commission shall conduct a preliminary review of the petition for purposes of technical assistance.

(b)  A technical assistance review is not a review to determine if the petitioner is entitled to be acknowledged as a Native American tribe. The technical assistance review must provide the petitioner an opportunity to supplement or revise the documented petition before active consideration.

(c)  The commission shall attempt to conduct technical assistance reviews in the order of receipt of documented petitions.

(d)  The commission shall give priority to active consideration of other documented petitions over technical assistance reviews.

Sec. 463.253.  NOTIFICATION OF DEFECTS BASED ON TECHNICAL REVIEW. After the technical assistance review, the commission shall notify the petitioner by letter of any obvious deficiencies or significant omissions apparent in the documented petition and provide the petitioner with an opportunity to withdraw the documented petition for further work or to submit additional information or clarification.

Sec. 463.254.  PETITIONER'S RESPONSE TO TECHNICAL REVIEW; REQUEST FOR ADDITIONAL REVIEW. (a) In responding to a technical assistance review, a petitioner may:

(1)  respond in full or in part to the technical assistance review letter; or

(2)  request in writing that the commission proceed with active consideration of the documented petition, using the materials already submitted.

(b)  If the petitioner requests that the materials submitted in response to the technical assistance review letter be reviewed again for adequacy, the commission shall provide the additional review.

Sec. 463.255.  ORDER OF CONSIDERATION: NOTIFICATION. (a) The commission shall determine the order of consideration of documented petitions based on whether a documented petition is ready for active consideration.

(b)  The commission shall notify the petitioner that the documented petition is ready to be placed on active consideration.

Sec. 463.256.  ORDER OF CONSIDERATION: REGISTER OF LETTERS OF INTENT AND DOCUMENTED PETITIONS. (a) The commission shall establish and maintain a numbered register of documented petitions that have been determined ready for active consideration.

(b)  The commission shall maintain a numbered register of letters of intent or incomplete petitions based on the original date of filing with the commission.

(c)  If two or more documented petitions are determined ready for active consideration on the same date, the register shall list the order of active consideration as determined by the commission.

Sec. 463.257.  INITIAL INVESTIGATION OF EVIDENCE. Before actively considering a documented petition, the commission shall investigate any petitioner whose documented petition and response to the technical assistance review letter indicates that there is little or no evidence that establishes that the group can meet the mandatory criteria in Section 463.154 or 463.155.

Sec. 463.258.  LACK OF EVIDENCE AFTER INITIAL INVESTIGATION; DECLINE OF ACKNOWLEDGMENT; COMMENTS. If the initial investigation shows that the evidence clearly establishes that the group does not meet the mandatory criteria in Section 463.154 or 463.155, the commission:

(1)  may not undertake a full consideration of the documented petition under all of the mandatory criteria; and

(2)  shall decline the petition and publish a proposed finding in the Texas Register that the commission has declined to acknowledge that the petitioner is a Native American tribe.

Sec. 463.259.  SUFFICIENT EVIDENCE AFTER INITIAL INVESTIGATION; NOTICE OF ACTIVE CONSIDERATION. (a) If the commission does not decline the petition under Section 463.258, the commission shall, during active consideration of the documented petition, undertake a full evaluation of the documented petition under the mandatory criteria.

(b)  The commission shall notify the petitioner and interested parties that the documented petition is under active consideration. The notice must include:

(1)  the name, office address, and telephone number of the staff member with primary administrative responsibility for the petition;

(2)  the names of the researchers conducting the evaluation of the petition and the name of their supervisor; and

(3)  any substantive comment on the petition received before active consideration or during the preparation of the proposed findings.

(c)  The petitioner may respond to any substantive comments contained in the notice.

Sec. 463.260.  SUSPENSION OF ACTIVE CONSIDERATION. (a) The commission may suspend active consideration of a documented petition, either conditionally or for a stated period, on a showing to the petitioner that there are technical problems with the documented petition or administrative problems that temporarily preclude continuing active consideration.

(b)  On resolution of the technical or administrative problems that are the basis for a suspension under Subsection (a), the documented petition has priority on the numbered register of documented petitions to the extent possible. The commission shall notify the petitioner and interested parties when active consideration of the documented petition is resumed.

(c)  The commission is not required to cease consideration based on requests by the petitioner or interested parties to cease consideration. The commission may consider a request by a petitioner for suspension of consideration and may grant the request for good cause.

(d)  The timetables in this subchapter shall begin anew on the resumption of active consideration.

Sec. 463.261.  PROPOSED FINDINGS; EXTENSION OF TIME. (a) Not later than the first anniversary of the date the commission notified the petitioner that active consideration of the documented petition has begun, the commission shall publish the proposed findings in the Texas Register.

(b)  The commission may extend the one-year period for not more than an additional 180 days. The commission shall notify the petitioner and interested parties of the extension.

(c)  In addition to the proposed findings, the commission shall prepare a report summarizing the evidence, reasoning, and analyses that are the basis for the proposed decision. The commission shall provide the report to the petitioner, interested parties, and informed parties and make the report available to others on written request.

Sec. 463.262.  COMMENT ON FINDINGS. (a) Not later than the 180th day after the date of publication of the proposed findings, the petitioner or any other person wishing to challenge or support the proposed findings may submit arguments and evidence to the commission to rebut or support the proposed findings.

(b)  The commission may extend the period for comment up to an additional 180 days for good cause. The commission shall notify the petitioner and interested parties of an extension.

(c)  Interested and informed parties who submit arguments and evidence to the commission shall provide copies of their submissions to the petitioner.

(d)  During the comment period, the commission shall provide technical advice concerning the factual basis for the proposed findings, the reasoning used in preparing them, and suggestions regarding the preparation of materials in response to the proposed findings. The commission shall make available to the petitioner in a timely fashion any records used for the proposed findings not already held by the petitioner, to the extent allowed by state law.

(e)  The commission may not accept further comments from interested or informed parties after the end of the regular response period.

Sec. 463.263.  FORMAL MEETING. (a) During the comment period and if requested by the petitioner or any interested party, the commission shall hold a formal meeting to respond to inquiries about the reasoning, analyses, and factual bases for the proposed findings.

(b)  The proceedings of the meeting are a public record.

(c)  The record of the meeting may be considered by the commission in reaching a final determination.

Sec. 463.264.  PETITIONER'S RESPONSE TO OTHER SUBMISSIONS. (a) During the comment period and not later than the 60th day after the date of a submission, the petitioner may respond to any submissions by interested and informed parties.

(b)  The commission may extend the time to respond if warranted by the extent and nature of the comments or submissions.

(c)  The commission shall notify the petitioner and interested parties by letter of any extension.

Sec. 463.265.  PERIOD FOR CONSIDERATION OF ARGUMENTS ON PROPOSED FINDINGS. (a) After completion of the comment period, the commission shall consult with the petitioner and interested parties to determine an equitable length of time for the consideration of written arguments and evidence submitted during the response period.

(b)  The commission shall notify the petitioner and interested parties of the period chosen.

Sec. 463.266.  UNSOLICITED COMMENTS RECEIVED AFTER COMMENT PERIOD. In making a final determination, the commission may not consider unsolicited comments submitted after the close of the comment period under Section 463.262.

Sec. 463.267.  ADDITIONAL INFORMATION AND RESEARCH. (a) The commission may request additional explanations and information from the petitioner or from commenting parties to support or supplement their comments on a proposed finding.

(b)  The commission may conduct additional research necessary to evaluate and supplement the record.

(c)  The commission shall include the information and research obtained under this section in the petition record.

Sec. 463.268.  FINAL DETERMINATION; PUBLICATION. (a) After consideration of the written arguments and evidence rebutting or supporting the proposed findings and the petitioner's response to the comments of interested parties and informed parties, the commission shall make a final determination regarding the petitioner's status.

(b)  Not later than the 60th day after the date on which the consideration of the written arguments and evidence rebutting or supporting the proposed findings began, the commission shall publish a summary of the written arguments and evidence together with the final determination in the Texas Register.

(c)  The commission may extend the period for the preparation of a final determination if warranted by the extent and nature of evidence and arguments received during the comment period.

(d)  The commission shall notify the petitioner and interested parties of the extension.

(e)  The final determination takes effect on the 90th day after the date of publication in the Texas Register if the determination is not appealed under Section 463.270. If the determination is appealed under Section 463.270, the final determination takes effect on the 90th day after the exhaustion of judicial review, including any remands and later final determinations and appeals.

Sec. 463.269.  EFFECT OF FINAL DETERMINATION; ACKNOWLEDGMENT BY STATE. (a) If the commission determines that the group satisfies the criteria prescribed by Subchapter D, the commission shall acknowledge, on behalf of the state, the existence of the petitioner as a Native American tribe. This determination is final for the state.

(b)  If the commission determines that the group fails to satisfy a criterion prescribed by Subchapter D, the commission shall decline to acknowledge that the petitioner is a Native American tribe.

(c)  If the commission declines to acknowledge that a petitioner is a Native American tribe, the commission shall inform the petitioner of alternatives, if any, to acknowledgment under these procedures. Alternatives may include other means through which the petitioning group may achieve the status of an acknowledged Native American tribe or through which any of its members may become eligible for services and benefits from the state as Native Americans, or become members of an acknowledged Native American tribe.

Sec. 463.270.  JUDICIAL REVIEW OF FINAL DETERMINATION. (a) The petitioner or any interested party may request judicial review of the final determination in a Travis County district court.

(b)  The district court shall review the final determination under Subchapter G, Chapter 2001, as if the determination were a contested case under Chapter 2001, except that a motion for rehearing is not a prerequisite for review. For purposes of Section 2001.176, the final determination is final and appealable on the date of publication in the Texas Register.

(c)  The court shall conduct the review using the substantial evidence rule under Section 2001.174.

[Sections 463.271-463.300 reserved for expansion]

SUBCHAPTER G. RIGHTS OF ACKNOWLEDGED TRIBE

Sec. 463.301.  ACKNOWLEDGMENT OF TRIBAL STATUS; APPLICABILITY. This subchapter applies to each tribe acknowledged by the state under Section 463.269.

Sec. 463.302.  ELIGIBILITY FOR SERVICES AND BENEFITS. (a) Acknowledgment of tribal existence by this state under this chapter or an earlier law is a prerequisite to the protection, services, and benefits of the state government available to Native American tribes by virtue of their status as tribes.

(b)  The tribe is eligible for the services and benefits from the state that are available to other federally recognized tribes.

(c)  To receive benefits, the tribe must meet the specific program requirements for programs for which it is eligible.

Sec. 463.303.  STATUS AS HISTORIC TRIBE; POWERS AND DUTIES. (a) The tribe is considered a historic tribe and is entitled to the privileges and immunities available to other state-acknowledged historic tribes by virtue of their state-to-tribal relationship with this state.

(b)  The tribe has the responsibilities and obligations of historic tribes.

(c)  The tribe is subject to the same authority of Texas laws and the United States as are other state-acknowledged tribes.

SECTION 2.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.