

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

1 interruption.

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

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

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

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

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

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

25 (11) "Interested party" means a person who can
26 establish a legal, factual, or property interest in an
27 acknowledgment determination and who requests an opportunity to

1 submit comments or evidence or requests to be kept informed of
2 general actions regarding a specific petitioner. The term includes
3 the Texas Historical Commission and attorney general and may
4 include local governments and any recognized Native American tribes
5 or unrecognized Native American groups that might be affected by an
6 acknowledgment determination.

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

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

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

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

25 (16) "Political influence or authority" means a tribal
26 council, leadership, internal process, or other mechanism that a
27 group has used to influence or control the behavior of its members

1 in significant respects, to make decisions for the group that
2 substantially affect its members, or to represent the group in
3 dealing with nonmembers in matters of consequence. This process is
4 to be understood in the context of the history, culture, and social
5 organization of a petitioner.

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

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

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

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

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

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

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

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

24 (3) associations, organizations, corporations, or
25 groups of any character that have been formed in recent times,
26 except that a Native American group that meets the criteria in
27 Subchapter D and that has recently incorporated or otherwise

1 formalized its existing autonomous political process will be viewed
2 as having changed its form in a manner that has no bearing on the
3 state's final determination under this chapter;

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

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

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

20 [Sections 463.004-463.050 reserved for expansion]

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

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

27 Sec. 463.052. AVAILABILITY OF GUIDELINES. (a) Not later

1 than January 1 of each odd-numbered year, the commission shall make
2 available revised and expanded guidelines for the preparation of
3 documented petitions.

4 (b) The guidelines must include:

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

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

9 (3) an example of a documented petition; and

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

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

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

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

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

25 Sec. 463.055. FILING LETTER OF INTENT. (a) A Native
26 American group in this state that wishes to be acknowledged a Native
27 American tribe by this state and believes it can satisfy the

1 criteria prescribed by Subchapter D may file a letter of intent with
2 the commission. The letter must be dated and signed by the governing
3 body of the Native American group.

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

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

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

16 [Sections 463.058-463.100 reserved for expansion]

17 SUBCHAPTER C. DOCUMENTED PETITION PROCEDURE

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

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

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

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

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

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

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

16 (1) full name, including any maiden name;

17 (2) date of birth; and

18 (3) current residential address.

19 (c) The petitioner must also provide:

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

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

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

26 Sec. 463.105. FORMS OF EVIDENCE FOR PETITION. The specific
27 forms of evidence listed together with the criteria prescribed by

1 Subchapter D are not mandatory forms of evidence. The criteria may
2 be met alternatively by any suitable evidence that demonstrates
3 that the petitioner meets the criteria.

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

9 (b) The commission shall take into account:

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

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

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

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

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

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

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

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

3 [Sections 463.108-463.150 reserved for expansion]

4 SUBCHAPTER D. MANDATORY CRITERIA FOR STATE ACKNOWLEDGMENT

5 Sec. 463.151. IDENTIFICATION AS NATIVE AMERICAN ENTITY.

6 (a) The petitioner must be identified as a Native American entity
7 on a substantially continuous basis since 1900.

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

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

13 (1) evidence of the group's:

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

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

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

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

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

26 (F) identification as a Native American entity in
27 relationships with Native American tribes or with national,

1 regional, or state Native American organizations; and

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

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

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

11 (1) significant social relationships connecting
12 individual members;

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

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

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

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

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

26 (7) the persistence of a named, collective Native
27 American identity continuously over a period of more than 50 years

1 despite any name changes for the group.

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

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

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

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

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

17 (4) that the group has met the criterion in Section
18 463.153 using evidence described in Section 463.153(c).

19 Sec. 463.153. POLITICAL INFLUENCE AS AUTONOMOUS ENTITY.

20 (a) The petitioner must have maintained political influence or
21 authority over its members as an autonomous entity from historical
22 times until the present.

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

27 (1) the group is able to mobilize significant numbers

1 of members and significant resources from its members for group
2 purposes;

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

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

8 (4) the group meets the criterion in Section
9 463.152(d) at more than a minimal level; or

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

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

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

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

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

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

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

6 (b) Evidence sufficient to prove this criterion includes:

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

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

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

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

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

27 Sec. 463.155. CRITERION REGARDING MEMBERSHIP IN OTHER

1 ACKNOWLEDGED TRIBES. (a) Except as provided by Subsection (b), the
2 membership of the petitioner must be composed principally of
3 persons who are not members of any North American tribe
4 acknowledged under this chapter or described by Section 463.003(1).

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

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

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

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

16 [Sections 463.156-463.200 reserved for expansion]

17 SUBCHAPTER E. NOTICE AND PUBLISHING REQUIREMENTS

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

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

1 petition and the date it was received.

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

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

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

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

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

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

21 (2) the attorney general; and

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

26 [Sections 463.205-463.250 reserved for expansion]

27 SUBCHAPTER F. PROCESSING OF DOCUMENTED PETITION

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

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

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

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

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

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

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

24 Sec. 463.253. NOTIFICATION OF DEFECTS BASED ON TECHNICAL
25 REVIEW. After the technical assistance review, the commission
26 shall notify the petitioner by letter of any obvious deficiencies
27 or significant omissions apparent in the documented petition and

1 provide the petitioner with an opportunity to withdraw the
2 documented petition for further work or to submit additional
3 information or clarification.

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

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

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

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

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

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

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

26 (b) The commission shall maintain a numbered register of
27 letters of intent or incomplete petitions based on the original

1 date of filing with the commission.

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

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

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

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

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

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

27 (b) The commission shall notify the petitioner and

1 interested parties that the documented petition is under active
2 consideration. The notice must include:

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

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

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

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

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

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

25 (c) The commission is not required to cease consideration
26 based on requests by the petitioner or interested parties to cease
27 consideration. The commission may consider a request by a

1 petitioner for suspension of consideration and may grant the
2 request for good cause.

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

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

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

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

19 Sec. 463.262. COMMENT ON FINDINGS. (a) Not later than the
20 180th day after the date of publication of the proposed findings,
21 the petitioner or any other person wishing to challenge or support
22 the proposed findings may submit arguments and evidence to the
23 commission to rebut or support the proposed findings.

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

27 (c) Interested and informed parties who submit arguments

1 and evidence to the commission shall provide copies of their
2 submissions to the petitioner.

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

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

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

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

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

21 Sec. 463.264. PETITIONER'S RESPONSE TO OTHER SUBMISSIONS.

22 (a) During the comment period and not later than the 60th day after
23 the date of a submission, the petitioner may respond to any
24 submissions by interested and informed parties.

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

27 (c) The commission shall notify the petitioner and

1 interested parties by letter of any extension.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (b) The district court shall review the final determination
14 under Subchapter G, Chapter 2001, as if the determination were a
15 contested case under Chapter 2001, except that a motion for
16 rehearing is not a prerequisite for review. For purposes of Section
17 2001.176, the final determination is final and appealable on the
18 date of publication in the Texas Register.

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

21 [Sections 463.271-463.300 reserved for expansion]

22 SUBCHAPTER G. RIGHTS OF ACKNOWLEDGED TRIBE

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

26 Sec. 463.302. ELIGIBILITY FOR SERVICES AND BENEFITS. (a)
27 Acknowledgment of tribal existence by this state under this chapter

1 or an earlier law is a prerequisite to the protection, services, and
2 benefits of the state government available to Native American
3 tribes by virtue of their status as tribes.

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

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

8 Sec. 463.303. STATUS AS HISTORIC TRIBE; POWERS AND DUTIES.

9 (a) The tribe is considered a historic tribe and is entitled to the
10 privileges and immunities available to other state-acknowledged
11 historic tribes by virtue of their state-to-tribal relationship
12 with this state.

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

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

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