

Department of Legislative Services
Maryland General Assembly
2002 Session

FISCAL NOTE
Revised

House Bill 342

(Delegates Branch and Fulton)

Commerce and Government Matters

Education, Health, and Environmental Affairs

Commission on Indian Affairs - Formal Recognition of Maryland Indian Status

This bill alters the procedure for providing formal State recognition of Maryland Indian status of a native American tribe, band, group, or clan by requiring the Commission on Indian Affairs to submit a recommendation for recognition if it has determined that the requirements have been met.

The bill applies retroactively to any application for formal recognition made on or after January 1, 2001, and on which the Governor has not taken any action by October 1, 2002. The Governor has 120 days from the effective date of the bill (October 1, 2002) to comply with its requirements regarding any such application for recognition.

Fiscal Summary

State Effect: None. The bill's changes could be handled with existing resources.

Local Effect: None.

Small Business Effect: Potential minimal. To the extent that the bill makes it easier to be recognized as a Maryland Indian tribe, those tribes could become eligible for benefits as minority business enterprises.

Analysis

Bill Summary: The bill establishes a 60-day deadline for the Secretary of the Department of Housing and Community Development (DHCD) to transmit the commission's recommendation to the Governor. It also requires the Governor to accept or reject the commission's recommendation within 120 days of receiving it. If the Governor rejects the commission's recommendation to grant recognition and does not issue an executive order within 120 days, the tribe, band, or group will not receive recognition until another application is submitted and approved. The bill states that granting formal recognition of Maryland Indian status may not be construed as creating any entitlements, benefits, or rights to conduct, manage, or operate gambling or gaming activities in the State.

Current Law: Subject to the approval of the Secretary of DHCD, the commission may establish a process by which a native American tribe, band, group, or clan which is indigenous to Maryland can apply to the commission for formal recognition of Maryland Indian status. If the commission determines that a particular tribe, band, group, or clan has met the requirements for recognition, it may recommend formal recognition to the Governor but is not required to do so.

If the Governor concurs with the commission's recommendation, the Governor may propose by executive order to formally recognize the particular tribe, band, group, or clan. There is no time limit in which the Governor must issue the order. The executive order must first be presented to the Joint Committee on Administrative, Executive, and Legislative Review for review and will take effect 30 days after submission to the committee.

Recognition is not intended to create any rights of ownership or other rights to land or to create any benefits or entitlements of any kind, nor are they intended to impair valid existing rights, benefits, or entitlements belonging to American Indians residing in the State.

Prior to formal recognition of Maryland Indian status, members of the petitioning group must renounce all tribal rights of ownership with respect to land in the State. The criteria required to achieve formal recognition must be consistent with the federal criteria used to recognize tribes in the United States. To be eligible for formal recognition, the petitioning group must be:

- identified from historical times until the present as "American Indian" or "aboriginal;"

- descendants from a tribe that existed historically and is either indigenous to Maryland or derived from historical tribes indigenous to Maryland prior to 1790;
- descendants of an Indian tribe that historically inhabited a specific area in Maryland prior to 1790; and
- composed principally of persons who are not members of any other North American tribe, band, group, or clan.

Background: The Indian Affairs Commission began in 1974 as part of the Commission on Afro-American and Indian History and Culture and later became part of DHCD. It consists of nine members, a majority of whom must be members of the Native American communities of Maryland. Appointed by the Governor with the advice and consent of the Senate, members serve three-year terms.

The commission coordinates programs and projects to further the cultural, educational, economic, and social development of Maryland's American Indian communities. It also works to promote public awareness and appreciation of the contributions that Indians have made to life in the State. Petitions from Native-American groups are reviewed by the commission for recognition by the Governor as Maryland Indian tribes.

There are no State-recognized tribes in Maryland; however, two tribes have petitioned the State for recognition, the Piscataway–Conoy and Piscataway Indian tribes. DHCD advises that State recognition provides a step toward federal recognition, which will make the recognized tribe eligible for federal benefits such as scholarships, grants, and health aid.

State Expenditures: DHCD advises that the bill's proposed time limits would not materially affect its resources but that additional resources would be needed if the Governor or the Secretary disagreed with the commission's recommendations. However, only two petitions are now pending and DHCD already reviews the commission's recommendations on an informal basis. Additional resources could be needed if the number of petitions increase under the bill, because the recognition process is complex.

DHCD advises that while State recognition does not directly confer State benefits, it will make it easier for recognized tribe members to be eligible as minority business enterprises (MBE), depending upon pending regulations that revise the definition of an MBE. MBEs are eligible for certain State contracts. Additionally, members of recognized tribes can receive the same benefits as other minority groups under State programs such as home energy assistance and Women, Infants, and Children.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Housing and Community Development,
Department of Legislative Services

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Analysis by: Ann Marie Maloney

Direct Inquiries to:
John Rixey, Coordinating Analyst
(410) 946-5510
(301) 970-5510