

# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

**Legislative Document** 

No. 1709

H.P. 1221

House of Representatives, May 9, 2019

An Act To Amend the Act To Implement the Maine Indian Claims Settlement

Reference to the Committee on Judiciary suggested and ordered printed.

ROBERT B. HUNT Clerk

R(+ B. Hunt

Presented by Representative COLLINGS of Portland. Cosponsored by President JACKSON of Aroostook.

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

#### Sec. 1. 2 MRSA §11 is enacted to read:

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### §11. Communication with congressional delegation on legislation affecting tribes

- 1. Active communications with congressional delegation. The Governor or the Governor's designee shall maintain active communications with the State's congressional delegation concerning legislation introduced in the United States Senate or the United States House of Representatives for the benefit of Indians, Indian nations or tribes or bands of Indians that would affect or preempt the application of the laws of this State, including application of the laws of the State to lands owned by or held in trust for Indians or Indian nations, tribes or bands of Indians as provided in the United States Code, Title 25, chapter 19, subchapter II.
- 2. Reports. Beginning October 15, 2019, the Governor or the Governor's designee shall submit a report within 10 days of receipt of information that legislation identified in subsection 1 has been introduced. Beginning January 15, 2020, the Governor or the Governor's designee shall submit an annual report that contains information about legislation identified in subsection 1, including its disposition, that was introduced within the preceding calendar year. The reports must be submitted to the President of the Senate, the Speaker of the House of Representatives, the Attorney General and the Chair of the Maine Indian Tribal-State Commission.
  - **Sec. 2. 30 MRSA §6204,** as enacted by PL 1979, c. 732, §§1 and 31, is repealed.
- **Sec. 3. 30 MRSA §6206, sub-§§1 and 2,** as enacted by PL 1979, c. 732, §§1 and 31, are amended to read:
  - 1. General Powers. Except as otherwise provided in this Act, the Passamaquoddy Tribe and the Penobscot Nation, within their respective Indian territories, shall have, exercise and enjoy all the rights, privileges, powers and immunities, including, but without limitation, the power to enact ordinances and collect taxes, and shall be subject to all the duties, obligations, liabilities and limitations of a municipality of and subject to the laws of the State, provided, however, that internal tribal matters, including membership in the respective tribe or nation, the right to reside within the respective Indian territories. tribal organization, tribal government, tribal elections and the use or disposition of settlement fund income shall not be subject to regulation by the State. The Passamaquoddy Tribe and the Penobscot Nation shall designate such officers and officials as are necessary to implement and administer those laws of the State applicable to the respective Indian territories and the residents thereof of a sovereign. Any resident of the Passamaquoddy Indian territory or the Penobscot Indian territory who is not a member of the respective tribe or nation nonetheless shall be is equally entitled to receive any municipal or governmental services provided by the respective tribe or nation or by the State, except those services which that are provided exclusively to members of the respective tribe or nation pursuant to state or federal law, and shall be are entitled to vote in national, state and county elections in the same manner as any tribal member residing within Indian territory.

- 2. Power to sue and be sued. The Passamaquoddy Tribe, and the Penobscot Nation and their members may sue and be sued in the courts of the State to the same extent as any other entity or person in the State provided, however, that the respective tribe or nation and its the officers and employees shall be of the Passamaquoddy Tribe and the Penobscot Nation are immune from suit when the respective tribe or nation is acting in its governmental capacity to the same extent as any municipality or like officers or employees thereof within of the State.
- **Sec. 4. 30 MRSA §6208, sub-§3,** as amended by PL 1985, c. 672, §§3 and 4, is repealed.
- **Sec. 5.** Contingent effective date. Except for section 1, which takes effect 90 days after adjournment of the First Regular Session of the 129th Legislature, this Act takes effect 120 days after adjournment of the First Regular Session of the 129th Legislature only if, within 90 days after the adjournment of the First Regular Session of the 129th Legislature, the Secretary of State receives written certification from the Governor and the Council of the Penobscot Nation that the nation has agreed to the provisions of section 2 of this Act and written certification from the Joint Tribal Council of the Passamaquoddy Tribe that the tribe has agreed to the provisions of this Act, with the exception of section 1, pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate, the Clerk of the House and the Revisor of Statutes.

21 SUMMARY

Current law provides that federal laws adopted after October 10, 1980 for the benefit of Indians, Indian nations or tribes or bands of Indians that would affect or preempt the application of the laws of this State, including application of the laws of the State to lands owned by or held in trust for Indians or Indian nations, tribes or bands of Indians do not apply within this State unless the subsequently enacted federal law is specifically made applicable within this State.

This bill directs the Governor or the Governor's designee to maintain active communications with all the members of the Maine congressional delegation about the introduction of any such legislation in the United States Senate or the United States House of Representatives. The Governor or the Governor's designee is required to submit a report within 10 days of the introduction of such legislation to the President of the Senate, the Speaker of the House of Representatives, the Attorney General and the Chair of the Maine Indian Tribal-State Commission. In addition, the Governor or the Governor's designee is required to submit an annual report about such legislation, including its status and disposition. The information in the reports will assist the President of the Senate, Speaker of the House, Attorney General and Maine Indian Tribal-State Commission in deciding how to work with the Maine congressional delegation to ensure the tribes in Maine are included in federal legislation when appropriate.

This bill amends the Act to Implement the Maine Indian Claims Settlement to specifically state that the Passamaquoddy Tribe and the Penobscot Nation have the same

rights, privileges, powers and immunities as a sovereign and repeals the requirement that all Indians, Indian nations and tribes and bands of Indians and any lands or other resources owned or held for them are subject to the laws of Maine and to the jurisdiction of Maine courts. The bill provides the same level of immunity to the Passamaquoddy Tribe and the Penobscot Tribe and their officers and employees as is enjoyed by officers and employees of the State. Finally, the bill repeals the provision of the implementing Act that subjects all Indians and Indian nations or tribe or band of Indians to taxes and fees.

The changes to the implementing Act do not take effect unless approved by the Governor and Council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe within 90 days after adjournment of the First Regular Session of the 129th Legislature.