AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

I

113TH CONGRESS
2D SESSION

H. R. 5215

To provide for the restoration of Federal recognition to the Clatsop-Nehalem Confederated Tribes of Oregon, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2014

Ms. BONAMICI introduced the following bill; which was referred to the Committee on Natural Resources

---

A BILL

To provide for the restoration of Federal recognition to the Clatsop-Nehalem Confederated Tribes of Oregon, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Clatsop-Nehalem Restoration Act''.

SEC. 2. DEFINITIONS.

In this Act:

(1) INTERIM COUNCIL.—The term ''Interim Council'' means the council which is established

under, and the members elected pursuant to, section 5.

(2) MEMBER.—The term ''member'', when used with respect to the tribe, means an individual enrolled on the membership roll of the tribe in accordance with section 7.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior or his designated representative.

(4) TRIBAL GOVERNING BODY.—The term ''tribal governing body'' means the governing body that is established under, and the members elected pursuant to, the tribal constitution and bylaws adopted in accordance with section 6.

(5) TRIBE.—The term ''tribe'' means Clatsop-Nehalem Confederated Tribes of Oregon considered as one tribe in accordance with section 3.

SEC. 3. CONSIDERATION OF THE CLATSOP-NEHALEM CONFEDERATED TRIBES AS ONE TRIBE.

The Clatsop-Nehalem Confederated Tribes of Oregon shall be considered as one tribal unit for purposes of Federal recognition and eligibility for Federal benefits under section 4, the establishment of tribal self-government under sections 5 and 6, and the compilation of a tribal membership roll under section 7.

SEC. 4. RESTORATION OF FEDERAL RECOGNITION, RIGHTS, AND PRIVILEGES.

(a) FEDERAL RECOGNITION.—Notwithstanding any provision of the Act approved August 13, 1954 (25 U.S.C. 691 et seq.) or any other law, Federal recognition is extended to the Clatsop-Nehalem Confederated Tribes of Oregon. Nothing is this bill shall affect or diminish the treaty rights previously determined for other federally recognized Indian tribes.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—Except as provided in subsection (d), all rights and privileges of the tribe and the members of the tribe under any Federal treaty, Executive order, agreement, statute, or other Federal authority, that may have been diminished or lost under the Act approved August 13, 1954 (25 U.S.C. 691 et seq.) are restored, and the provisions of such Act shall be inapplicable to the tribe and to members of the tribe after the date of the enactment of this Act.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and its members shall be eligible, on and after the date of the enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes without regard to the existence of a reservation for the tribe. In the case of Federal services available to members of federally recognized Indian tribes residing on or near a reservation,

members of the tribe residing in the following counties of the State of Oregon shall be deemed to be residing on or near a reservation:

(1) Tillamook County.

(2) Clatsop County.

(d) NO HUNTING, FISHING OR TRAPPING RIGHTS RESTORED.—No hunting, fishing, or trapping rights of any nature of the tribe or of any member, including any indirect or procedural right or advantage over individuals who are not members, are granted or restored under this Act.

(e) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this Act, no provision contained in this Act shall alter any property right or obligation, any contractual right or obligation, or any obligation for taxes already levied.

SEC. 5. INTERIM COUNCIL.

(a) ESTABLISHMENT.—There is established an Interim Council of the tribe which shall be composed of nine members. The Interim Council shall—

(1) represent the tribe and its members in the implementation of this Act; and

(2) be the governing body of the tribe until the tribal governing body convenes.

(b) NOMINATION AND ELECTION OF INTERIM COUNCIL MEMBERS.—

(1) GENERAL COUNCIL MEETING.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall announce the date of a general council meeting of the tribe to nominate candidates for election to the Interim Council. Such general council meeting shall be held not later than 15 days after such announcement.

(2) ELECTION.—Not later than 45 days after the general council meeting held under paragraph (1), the Secretary shall hold an election by secret ballot to elect the members of the Interim Council from among the members nominated in the general council meeting. Absentee and write-in balloting shall be permitted.

(3) APPROVAL OF RESULTS.—The Secretary shall approve the results of the Interim Council election conducted pursuant to this subsection if the Secretary is satisfied that the requirements of this section relating to the nomination and the election processes have been met. If the Secretary is not so satisfied, the Secretary shall—

(A) call for another general council meeting to be held not later than 60 days after such

election to nominate candidates for election to the Interim Council; and

(B) hold another election within 45 days of such meeting.

(4) NOTICE.—The Secretary shall take any action necessary to ensure that each member described in section 7(d) is given notice of the time, place, and purpose of each meeting and election held pursuant to this subsection not less than 10 days before the general meeting or election.

(c) AUTHORITY AND CAPACITY; TERMINATION.—The Interim Council shall—

(1) have no powers other than those given it under this Act;

(2) with respect to any Federal service or benefit for which the tribe or any member is eligible, have full authority and capacity to receive grants and to enter into contracts;

(3) except as provided in subsection (d), terminate on the date that the tribal governing body first convenes; and

(4) with respect to any contractual right established and any obligation entered into by the Interim Council, have the authority and capacity to bind the tribal governing body, as the successor in interest to

the Interim Council, for a period of not more than 6 months beginning on the date such tribal governing body first convenes.

(d) VACANCY ON INTERIM COUNCIL.—Not later than 30 days after a vacancy occurs on the Interim Council and subject to the approval of the Secretary, the Interim Council shall hold a general council meeting to nominate a candidate for election to fill such vacancy and hold such election. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 7(d) not less than 10 days before each general meeting or election.

SEC. 6. TRIBAL CONSTITUTION AND BYLAWS; TRIBAL GOVERNING BODY.

(a) ADOPTION OF PROPOSED CONSTITUTION AND BYLAWS; ELECTION.—

(1) TIME AND PROCEDURE.—The Interim Council shall—

(A) prepare the tribal constitution and bylaws which shall provide for, at a minimum, the establishment of a tribal governing body and tribal membership qualifications; and

(B) adopt such tribal constitution not later than 6 months after the date of the enactment of this Act.

(2) ELECTION.—Upon the adoption of the proposed tribal constitution and bylaws by the Interim Council, the Council shall request that the Secretary, in writing, schedule an election to approve or disapprove the adoption of such constitution and bylaws. The Secretary shall conduct an election by secret ballot in accordance with section 16 of the Act of June 18, 1934.

(b) NOTICE AND CONSULTATION.—Not less than 30 days before any election scheduled pursuant to subsection (a), a copy of the proposed tribal constitution and bylaws, as adopted by the Interim Council, along with a brief and impartial description of the proposed constitution and bylaws shall be sent to each member described in section 7(d). The members of the Interim Council may freely consult with members of the tribe concerning the text and description of the constitution and bylaws, except that such consultation may not be carried on within 50 feet of the polling places on the date of such election.

(c) MAJORITY VOTE FOR ADOPTION; PROCEDURE IN EVENT OF FAILURE TO ADOPT PROPOSED CONSTITUTION.—

(1) MAJORITY VOTE FOR ADOPTION.—In any election held pursuant to subsection (a), a vote of a majority of those actually voting shall be necessary

and sufficient for the approval of the adoption of the tribal constitution and bylaws.

(2) PROCEDURE IN EVENT OF FAILURE TO ADOPT PROPOSED CONSTITUTION.—If in any such election such majority does not approve the adoption of the proposed tribal constitution and bylaws, the Interim Council shall be responsible for preparing another tribal constitution and other bylaws in the same manner provided in this section for the first proposed constitution and bylaws. The new proposed constitution and bylaws shall be adopted by the Interim Council not later than 6 months after the date of the election in which the first proposed constitution and bylaws failed to be adopted. An election on the question of the adoption of the new proposal of the Interim Council shall be conducted in the same manner provided in subsection (a)(2) for the election on the first proposed constitution and bylaws.

(d) ELECTION OF TRIBAL GOVERNING BODY.—Not later than 120 days after the tribe approves the adoption of the tribal constitution and bylaws and subject to the approval of the Secretary, the Interim Council shall conduct an election, by secret ballot, to elect the tribal governing body established under such constitution and bylaws. Notwithstanding any provision of the tribal constitu-

tion and bylaws, absentee and write-in balloting shall be permitted in an election under this subsection.

SEC. 7. MEMBERSHIP ROLLS; VOTING RIGHTS OF MEMBER.

(a) MEMBERSHIP ROLL ESTABLISHED AND OPENED.—The membership roll of the tribe is established and open.

(b) CRITERIA GOVERNING ELIGIBILITY.—

(1) MEMBERSHIP PRIOR TO ELECTION.—Until the first election of the tribal governing body is held pursuant to section 6(d), the membership of the Clatsop-Nehalem Confederated Tribes shall consist as follows:

(A) Any person who can document being a direct descent from a Clatsop or Nehalem (Naalem) Tillamook Indian (or both) on the tribal rolls compiled—

(i) in 1906 by Charles E. McChesney, Supervisor of Indian School.

(B) Any person found eligible by the Portland, Oregon, Area Office of the Bureau of Indian Affairs who would satisfy enrollment requirements under—

(i) the Act of August 24, 1912, (37 Stat. 518–535);

(ii) the Act of August 30, 1964, (78 Stat. 639); or

(iii) part 43 of title 25, Code of Federal Regulations.

(C) Any person who descends from those Indians who were signers of the treaties between the United States and the Clatsop Tribe and the Nehalem Band of the Tillamooks at Tansy Point, August 5 and 6, 1851 (Vol. 1, p. 7–13; Records Concerning Negotiation of Treaties, 1851–1855; Oregon Superintendency (National Archives Microfilm Publication M2, roll 28); Records of the Bureau of Indian Affairs, Record Group 75; National Archives Building, Washington, DC).

(D) Any person who can document their direct descent from a Clatsop or Nehalem Tillamook Indian on any other Federal, State, Indian, or church record.

(E) Descends from those Indians who were members of the Hobsonville Community.

(F) All children born to a member of the tribe.

(2) MEMBERSHIP AFTER ELECTION.—After the first election of the tribal governing body is held

pursuant to section 6(d), the provisions of the constitution and bylaws adopted in accordance with section 6(a) shall govern membership in the tribe.

(c) DUAL MEMBERSHIP.—Any person who is enrolled in any other federally recognized Indian tribe, band, or community or native corporation shall not, at the same time be enrolled in the tribe.

(d) PROCEDURES FOR VERIFICATION OF ELIGIBILITY.—

(1) BEFORE ELECTION OF INTERIM COUNCIL.—Before the election of the members of the Interim Council is held pursuant to section 5(b), verification of descendancy, for purposes of enrollment and age for purposes of voting rights under subsection (d) shall be made upon oath before the Secretary whose determination thereon shall be final.

(2) AFTER ELECTION OF INTERIM COUNCIL.—After the election of the members of the Interim Council is held pursuant to section 5(b), but before the first election of the members of the tribal governing body is held pursuant to section 6(d), the verification of descendancy and age shall be made upon oath before the Interim Council, or its authorized representative. An individual may appeal the exclusion of his name from the membership roll of the

tribe to the Secretary, who shall make a final determination of each such appeal within 90 days after such an appeal has been filed with him. The determination of the Secretary with respect to such an appeal shall be final.

(3) AFTER ELECTION OF TRIBAL GOVERNING BODY.—After the first election of the members of the tribal governing body is held pursuant to section 6(d), the provisions of the constitution and bylaws adopted in accordance with section 6(a) shall govern the verification of any requirements for membership in the tribe. The Interim Council and the Secretary shall deliver their records and files and any other material relating to the enrollment of tribal members to such tribal governing body.

(4) PUBLICATION OF MEMBERSHIP ROLL.—Not less than 60 days before the election under section 6(a), the Secretary shall publish in the Federal Register a certified copy of the membership roll of the tribe as of the date of such publication. Such membership roll shall include the names of all individuals who were enrolled by the Secretary, either directly under paragraph (1) or pursuant to an appeal under paragraph (2), and by the Interim Council under paragraph (2).

(e) VOTING RIGHTS OF MEMBER.—Each member who is 18 years of age or older shall be eligible to—

(1) attend, participate in, and vote at each general council meeting;

(2) nominate candidates for any office;

(3) run for any office; and

(4) vote in any election of members to the Interim Council and to such other tribal governing body as may be established under the constitution and bylaws adopted in accordance with section 6.

SEC. 8. REGULATIONS.

The Secretary may promulgate such regulations as may be necessary to carry out the provisions of this Act.

○