

By: Leibowitz

H.B. No. 619

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 Indian governing entity. The term must be understood in the context of the history, geography, culture, and social organization of a petitioner.

(2) "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.

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

(4) "Documented petition" means the detailed arguments made by a petitioner to substantiate its claim to

1 continuous existence as an Indian tribe, together with the factual
2 exposition and all documentary evidence necessary to demonstrate
3 that these arguments address the mandatory criteria in Subchapter
4 D.

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

8 (6) "Indian group" means a Native American aggregation
9 in the United States.

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

14 (8) "Indigenous" means native to this state in that at
15 least part of the petitioner's territory at the time of first
16 sustained contact with non-Indians extended into what is now this
17 state.

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

22 (10) "Interested party" means a person who can
23 establish a legal, factual, or property interest in an
24 acknowledgment determination and who requests an opportunity to
25 submit comments or evidence or requests to be kept informed of
26 general actions regarding a specific petitioner. The term includes
27 the governor and attorney general and may include local governments

1 and any recognized Indian tribes or unrecognized Indian groups that
2 might be affected by an acknowledgment determination.

3 (11) "Letter of intent" means a letter or resolution
4 without supporting documentation by which an Indian group requests
5 acknowledgment as an Indian tribe under this chapter and expresses
6 its intent to submit a documented petition.

7 (12) "Member of an Indian group" means an individual
8 who is recognized by an Indian group as meeting its membership
9 criteria and who consents to being listed as a member of that group.

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

17 (14) "Petitioner" means an entity that has submitted a
18 letter of intent to the governor requesting acknowledgment that it
19 is an Indian tribe.

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

1 (16) "Tribal relations" means participation by an
2 individual in a political and social relationship with an Indian
3 tribe.

4 (17) "Tribal roll" means a list of members of an Indian
5 group or tribe.

6 Sec. 463.002. APPLICABILITY; ELIGIBILITY. This chapter
7 applies only to Indian groups indigenous to this state:

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

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

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

13 (1) an Indian group indigenous to this state that was
14 previously acknowledged as an Indian tribe of this state as of
15 September 1, 2009;

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

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

26 (4) splinter groups, political factions, communities,
27 or groups of any character that separate from the main body of a

1 currently acknowledged Indian tribe, except for a group that can
2 establish clearly that it has functioned throughout history until
3 the present as an autonomous tribal entity, even though it has been
4 regarded by some as a chapter of or has been associated in some
5 manner with an acknowledged North American Indian tribe;

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

11 (6) persons who are the subject of a state statute that
12 has expressly terminated or forbidden acknowledgement by the state
13 as an Indian tribe.

14 [Sections 463.004-463.050 reserved for expansion]

15 SUBCHAPTER B. GENERAL POWERS AND DUTIES OF GOVERNOR AND
16 PETITIONERS

17 Sec. 463.051. LIST OF STATE-ACKNOWLEDGED TRIBES. At least
18 once every three years, the governor shall publish in the Texas
19 Register a list of all Indian tribes acknowledged by the state under
20 this chapter.

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

25 (b) The guidelines must include:

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

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

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

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

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

10 Sec. 463.053. ADVICE FOR PETITIONERS. (a) The office of
11 the governor shall, on request, provide petitioners with
12 suggestions and advice regarding preparation of a documented
13 petition.

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

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

20 Sec. 463.055. FILING LETTER OF INTENT. (a) An Indian group
21 in this state that wishes to be acknowledged as an Indian tribe by
22 this state and believes it can satisfy the criteria prescribed by
23 Subchapter D may file a letter of intent with the governor. The
24 letter must be dated and signed by the governing body of the Indian
25 group.

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

1 Sec. 463.056. CONTACT AFTER LETTER OF INTENT. After an
2 Indian group has filed a letter of intent requesting state
3 acknowledgment as an Indian tribe and until that group has actually
4 submitted a documented petition, the governor may contact the group
5 periodically and request clarification, in writing, of its intent
6 to continue with the petitioning process.

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

11 [Sections 463.058-463.100 reserved for expansion]

12 SUBCHAPTER C. DOCUMENTED PETITION PROCEDURE

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

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

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

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

27 Sec. 463.103. GOVERNING DOCUMENT OR PROCEDURES; MEMBERSHIP

1 CRITERIA. The petition must include a copy of the group's present
2 governing document, including its membership criteria. In the
3 absence of a written document, the petitioner must provide a
4 statement describing in full its membership criteria and current
5 governing procedures.

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

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

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

12 (2) date of birth; and

13 (3) current residential address.

14 (c) The petitioner must also provide:

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

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

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

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

26 Sec. 463.106. STANDARDS FOR REVIEWING PETITION. (a) The
27 governor shall consider a criterion satisfied by a petition if the

1 available evidence establishes a reasonable likelihood that the
2 criterion has been met. Conclusive proof of the facts relating to a
3 criterion is not required for the criterion to be considered met.

4 (b) The governor shall take into account:

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

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

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

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

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

18 Sec. 463.107. DENIAL OF PETITION. The governor may deny a
19 petition:

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

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

24 [Sections 463.108-463.150 reserved for expansion]

25 SUBCHAPTER D. MANDATORY CRITERIA FOR STATE ACKNOWLEDGMENT

26 Sec. 463.151. IDENTIFICATION AS AMERICAN INDIAN ENTITY.

27 (a) The petitioner must be identified as an American Indian entity

1 on a substantially continuous basis since 1900.

2 (b) Evidence that the group's character as an Indian entity
3 has from time to time been denied is not conclusive evidence that
4 this criterion has not been met.

5 (c) Evidence that may be considered in determining a group's
6 Indian identity may include:

7 (1) evidence of the group's:

8 (A) identification as an Indian entity by state
9 authorities;

10 (B) relationships with colonists or governments
11 based on identification of the group as Indian, including the
12 governments of Spain, France, Mexico, or Texas;

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

15 (D) identification as an Indian entity by
16 anthropologists, historians, or other scholars;

17 (E) identification as an Indian entity in
18 newspapers and books; and

19 (F) identification as an Indian entity in
20 relationships with Indian tribes or with national, regional, or
21 state Indian organizations; and

22 (2) any other evidence of the group's identification
23 as an Indian entity by other than the petitioner itself or its
24 members.

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

1 until the present.

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

4 (1) significant social relationships connecting
5 individual members;

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

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

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

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

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

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

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

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

26 (1) that more than 50 percent of the members reside in
27 a geographical area exclusively or almost exclusively composed of

1 group members, and the balance of the group maintains consistent
2 interaction with some members of the community;

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

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

10 (4) that the group has met the criterion in Section
11 463.153 using evidence described in Section 463.153(c).

12 Sec. 463.153. POLITICAL INFLUENCE AS AUTONOMOUS ENTITY.

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

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

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

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

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

1 (4) the group meets the criterion in Section
2 463.152(d) at more than a minimal level; or

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

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

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

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

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

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

21 Sec. 463.154. MEMBERSHIP DESCENDED FROM HISTORICAL INDIAN
22 TRIBE. (a) The petitioner must show that its membership consists
23 of individuals who descend from a historical Indian tribe or from
24 historical Indian tribes that combined and functioned as a single
25 autonomous political entity.

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

27 (1) rolls prepared by the governor on a lineal

1 descendant basis for purposes of distributing claims money,
2 providing allotments, or other purposes;

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

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

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

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

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

25 (b) The petitioner may be acknowledged even if its
26 membership is composed principally of persons whose names have
27 appeared on rolls of, or who have been otherwise associated with, a

1 different and acknowledged Indian tribe, if the petitioner
2 establishes that:

3 (1) it has functioned throughout history until the
4 present as a separate and autonomous Indian tribal entity;

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

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

9 [Sections 463.156-463.200 reserved for expansion]

10 SUBCHAPTER E. NOTICE AND PUBLISHING REQUIREMENTS

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

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

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

27 (c) The notice must indicate where a copy of the letter of

1 intent and the documented petition may be examined.

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

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

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

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

14 (2) the attorney general; and

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

19 [Sections 463.205-463.250 reserved for expansion]

20 SUBCHAPTER F. PROCESSING OF DOCUMENTED PETITION

21 Sec. 463.251. GENERAL DUTIES OF GOVERNOR REGARDING REVIEW.

22 (a) On receipt of a documented petition, the governor shall review
23 the petition to determine whether the petitioner is entitled to be
24 acknowledged as an Indian tribe.

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

1 (c) The governor may consider any evidence submitted by
2 interested parties or informed parties.

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

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

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

14 (d) The governor shall give priority to active
15 consideration of other documented petitions over technical
16 assistance reviews.

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

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

27 (1) respond in full or in part to the technical

1 assistance review letter; or

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

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

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

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

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

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

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

25 Sec. 463.257. INITIAL INVESTIGATION OF EVIDENCE. Before
26 actively considering a documented petition, the governor shall
27 investigate any petitioner whose documented petition and response

1 to the technical assistance review letter indicates that there is
2 little or no evidence that establishes that the group can meet the
3 mandatory criteria in Section 463.154 or 463.155.

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

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

11 (2) shall decline the petition and publish a proposed
12 finding in the Texas Register that the governor has declined to
13 acknowledge that the petitioner is an Indian tribe.

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

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

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

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

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

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

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

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

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

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

25 Sec. 463.261. PROPOSED FINDINGS; EXTENSION OF TIME. (a)
26 Not later than the first anniversary of the date the governor
27 notified the petitioner that active consideration of the documented

1 petition has begun, the governor shall publish the proposed
2 findings in the Texas Register.

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

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

12 Sec. 463.262. COMMENT ON FINDINGS. (a) Not later than the
13 180th day after the date of publication of the proposed findings,
14 the petitioner or any other person wishing to challenge or support
15 the proposed findings may submit arguments and evidence to the
16 governor to rebut or support the proposed findings.

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

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

23 (d) During the comment period, the governor shall provide
24 technical advice concerning the factual basis for the proposed
25 findings, the reasoning used in preparing them, and suggestions
26 regarding the preparation of materials in response to the proposed
27 findings. The governor shall make available to the petitioner in a

1 timely fashion any records used for the proposed findings not
2 already held by the petitioner, to the extent allowed by state law.

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

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

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

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

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

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

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

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

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

1 (b) The governor shall notify the petitioner and interested
2 parties of the period chosen.

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

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

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

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

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

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

26 (c) The governor may extend the period for the preparation
27 of a final determination if warranted by the extent and nature of

1 evidence and arguments received during the comment period.

2 (d) The governor shall notify the petitioner and interested
3 parties of the extension.

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

11 Sec. 463.269. EFFECT OF FINAL DETERMINATION;
12 ACKNOWLEDGMENT BY STATE. (a) If the governor determines that the
13 group satisfies the criteria prescribed by Subchapter D, the
14 governor shall acknowledge, on behalf of the state, the existence
15 of the petitioner as an Indian tribe. This determination is final
16 for the state.

17 (b) If the governor determines that the group fails to
18 satisfy a criterion prescribed by Subchapter D, the governor shall
19 decline to acknowledge that the petitioner is an Indian tribe.

20 (c) If the governor declines to acknowledge that a
21 petitioner is an Indian tribe, the governor shall inform the
22 petitioner of alternatives, if any, to acknowledgment under these
23 procedures. Alternatives may include other means through which the
24 petitioning group may achieve the status of an acknowledged Indian
25 tribe or through which any of its members may become eligible for
26 services and benefits from the state as Indians, or become members
27 of an acknowledged Indian 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 Indian 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

1 privileges and immunities available to other state-acknowledged
2 historic tribes by virtue of their state-to-tribal relationship
3 with this state.

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

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

8 Sec. 463.304. CONSULTATION WITH STATE AGENCIES REGARDING
9 NEEDS; GOVERNOR. (a) Not later than six months after the date of
10 the acknowledgment, an appropriate state agency designated by the
11 governor shall consult with the newly acknowledged tribe and
12 develop, in cooperation with the tribe, a determination of needs.

13 (b) A tribe may not request money from the state until the
14 determination of needs is completed.

15 (c) The state agency shall forward this determination of
16 needs to the governor and make recommendations to the governor
17 regarding those needs and budgetary requirements to fulfill the
18 needs.

19 (d) The governor shall consider the recommended budget
20 along with the other recommendations.

21 SECTION 2. This Act takes effect immediately if it receives
22 a vote of two-thirds of all the members elected to each house, as
23 provided by Section 39, Article III, Texas Constitution. If this
24 Act does not receive the vote necessary for immediate effect, this
25 Act takes effect September 1, 2009.