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HOUSE BILL NO. 2106

Offered January 14, 2015

Prefiled January 14, 2015

A *BILL to amend the Code of Virginia by adding in Title 30 a chapter numbered 57, consisting of sections numbered 30-360 through 30-368, relating to the Joint Commission on Virginia Indian Recognition; report.*

 Patron—Peace

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 30 a chapter numbered 57, consisting of sections numbered 30-360 through 30-368, as follows:

CHAPTER 57.**JOINT COMMISSION ON VIRGINIA INDIAN RECOGNITION.****§ 30-360. Joint Commission on Virginia Indian Recognition; purpose.**

The Joint Commission on Virginia Indian Recognition (the Commission) is established in the legislative branch of state government. The purpose of the Commission is to review applications and make recommendations to the General Assembly regarding applications of groups seeking recognition as Virginia Indian Tribes.

§ 30-361. Membership; terms; vacancies; chairman and vice-chairman.

The Commission shall consist of 13 members that include seven legislative members, three nonlegislative citizen members, and three ex officio members. Members shall be appointed as follows: five members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; two nonlegislative citizen members, at least one of whom shall represent the Virginia Indian community, to be appointed by the Speaker of the House of Delegates; one nonlegislative citizen member who shall represent the Commonwealth's scholarly community to be appointed by the Senate Committee on Rules; and the Librarian of Virginia, the Director of the Department of Historic Resources, and the Superintendent of Public Instruction, or their designees, to serve ex officio with voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth.

Unless otherwise approved in writing by the chairman of the Commission and the respective Clerk, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.

Legislative members and ex officio members of the Commission shall serve terms coincident with their terms of office, except that in years when there is an active application for full recognition, no member may serve on the Commission who is the elected representative of the district in which the applying organization is based. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

§ 30-362. Quorum; meetings; voting on recommendations.

A majority of the members shall constitute a quorum. The Commission shall meet at least once each year no earlier than September 1 or later than November 30 in order to review both preliminary and final submission for tribal recognition or commendation by resolution. In the absence of any submissions, this meeting may be waived. Other meetings of the Commission shall be held at the call of the chairman or whenever the majority of the members so request.

No recommendation of the Commission shall be adopted if a majority of the House members or a majority of the Senate members appointed to the Commission (i) vote against the recommendation and (ii) vote for the recommendation to fail notwithstanding the majority vote of the Commission.

§ 30-363. Compensation; expenses.

Legislative members of the Commission shall receive such compensation as provided in § 30-19.12,

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59 and nonlegislative citizen members shall receive such compensation for the performance of their duties
60 as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses
61 incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. However, all such
62 compensation and expenses shall be paid from existing appropriations to the Commission or, if
63 unfunded, shall be approved by the Joint Rules Committee.

64 The Commission may solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other
65 funds or real or personal property for the purpose of aiding or facilitating the work of the Commission.
66 In accordance with the appropriation act, the Commission may procure supplies, services, and property
67 and make or enter into contracts, leases, or other legal agreements as it may deem necessary to carry
68 out its duties as set forth in this chapter, but no contract, lease, or other legal agreement shall be
69 entered into by the Commission that extends beyond July 1, 2024.

70 **§ 30-364. Powers and duties of the Commission.**

71 A. The Commission shall have the following powers and duties:

72 1. Establish guidance for documentation required to meet the criteria for full recognition of the
73 Virginia Indian Tribes that is consistent with the principles and requirements of the federal tribal
74 recognition, and for otherwise honoring individuals and groups who can show Indian descent and active
75 identification with their Indian heritage but may not meet the criteria for full tribal recognition;

76 2. Establish a process for accepting and reviewing all applications for either full recognition or
77 commending resolution;

78 3. Appoint and establish an advisory panel or panels on tribal recognition composed of
79 nonlegislative citizens at large who have knowledge of Virginia Indian history and current status. Such
80 panels (i) may be activated in any year in which an application for full recognition has been requested
81 and in other years as deemed appropriate by the Commission and (ii) shall include at a minimum a
82 certified genealogist and at least two scholars with recognized familiarity with Virginia Indian Tribes
83 along with a working knowledge of Indian law. No member of an advisory panel shall be associated in
84 any way with the applying group. Members of the advisory panel shall receive such compensation for
85 the performance of their duties as provided in § 2.2-2813 and shall be reimbursed for reasonable and
86 necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825;

87 4. Make recommendations to the General Assembly for full recognition or commending resolutions
88 based on the findings of an advisory panel and the Commission; and

89 5. Perform such other duties, functions, and activities as may be necessary to facilitate and
90 implement the objectives of this chapter.

91 B. The Commission shall develop the details for and implement a procedure based on the following
92 steps:

93 1. Future requests for recognition shall be handled through a two-stage process in which a group
94 seeking recognition first submits a summary proposal to the Commission for evaluation;

95 2. If the summary proposal appears to have merit, the Commission shall make that recommendation
96 to the General Assembly, which would, by resolution, authorize the recognition process to advance to a
97 full application for recognition. Concurrent with the authorization to advance, a budget amendment
98 sufficient to cover the costs associated with the work of the advisory panel shall be approved by the
99 General Assembly;

100 3. Following the authorization to proceed by the General Assembly, the Commission shall establish
101 an advisory panel whose membership shall include (i) state and federally recognized tribes, as
102 appropriate, and (ii) an individual with significant scholarly expertise; and

103 4. The group seeking recognition shall submit a full application with supporting documentation and
104 shall provide such additional documentation as requested by the advisory panel.

105 C. The advisory panel shall review the application and supporting documentation, hold public
106 meetings, and report its findings and recommendations to the Commission at its annual meeting.

107 D. The Commission shall make its recommendations to the General Assembly for (i) approval for full
108 recognition, (ii) passage of a commending resolution in lieu of recognition, (iii) continuation of the
109 process outlined in this section for an additional year to allow the applying group to submit new
110 evidence, or (iv) conclusion of the process because the evidence did not support full recognition or a
111 commending resolution.

112 E. A recommendation for full recognition as a Virginia Indian Tribe shall be accompanied by draft
113 legislation in bill form for passage by the General Assembly and signed into law by the Governor.

114 F. As an alternative to full recognition, groups that identify themselves as Indians, with roots either
115 in the historical tribes of Virginia or federally recognized tribes outside of Virginia, may apply for
116 commending resolutions that would honor the group's educational and assistance programs without
117 conferring formal tribal recognition. If chosen, this alternative may be either a separate and shortened
118 review process that parallels the process set out in subdivisions B 1 and 2 for recognition or an
119 alternative outcome for a full two-year review for groups unable to document descent, community
120 cohesion, or continuity from the seventeenth century to the present.

§ 30-365. Criteria for tribal recognition.

The criteria for tribal recognition are as follows:

- 1. Demonstration that the group's members have retained specifically Indian identity through time;*
- 2. Demonstration of descent from a historical Indian group or groups that lived in Virginia's current boundaries at the time of that group's first contact with Europeans;*
- 3. Demonstration of the group's continued existence in Virginia from first contact with Europeans to the present;*
- 4. Provision of a complete genealogy of current group members, traced as far back as possible;*
- 5. Evidence that the group has been socially distinct from other cultural groups, at least through the twentieth century and earlier, if possible, by organizing separate churches, schools, political organization, or the like; and*
- 6. Evidence of contemporary formal organization with membership restricted to people genealogically descended from the historic tribes.*

§ 30-366. Staffing.

Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates or the Office of the Clerk of the Senate as may be appropriate for the house in which the chairman of the Commission serves. The Division of Legislative Services shall provide legal, research, policy analysis, and other services as requested by the Commission.

§ 30-367. Chairman's executive summary of activity and work of the Commission.

The chairman shall submit to the General Assembly and the Governor an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

§ 30-368. Sunset.

The provision of this chapter shall expire on July 1, 2024.

- 2. That, for its first year of existence, if the Joint Commission on Virginia Indian Recognition (the Commission), as created by this act, is not funded by a separate appropriation in the appropriation act, the Commission may be funded from the operating budgets of the Clerk of the House of Delegates and the Clerk of the Senate upon the approval of the Joint Rules Committee. If the Commission is not funded by a separate appropriation in the appropriation act for any year thereafter, this chapter shall expire on July 1 of the fiscal year in which the Commission fails to receive such funding.**