

cancy. The Interim Council shall provide notice of the time, place, and purpose of such meeting and election to members described in section 711b(d) of this title at least ten days before such general meeting and election. The person nominated to fill such vacancy at the general council meeting who received the highest number of votes in the election shall fill such vacancy.

(Pub. L. 95-195, § 5, Nov. 18, 1977, 91 Stat. 1416; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695.)

CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Welfare” in subsec. (b), pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

**§ 711d. Tribal constitution and bylaws**

**(a) Election; time and procedure**

Upon the written request of the Interim Council, the Secretary shall conduct an election by secret ballot, pursuant to the provisions of section 476 of this title, for the purpose of adopting a constitution and bylaws for the tribes. The election shall be held within sixty days after the Secretary has—

- (1) reviewed and updated the final membership roll for accuracy, in accordance with section 711b(a), (b)(1), and (c)(1) of this title,
- (2) made a final determination of all appeals filed under section 711b(c)(2) of this title, and
- (3) published in the Federal Register a certification copy of the membership roll of the tribe.

**(b) Pre-election distribution of proposed constitution and bylaws and brief impartial description; consultation by Interim Council with members of tribe**

The Interim Council shall draft and distribute to each member described in section 711b(d) of this title, no later than thirty days before the election under subsection (a) of this section, a copy of the proposed constitution and bylaws of the tribe, as drafted by the Interim Council, along with a brief, impartial description of the proposed constitution and bylaws. 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 fifty feet of the polling places on the date of the election.

**(c) Majority vote necessary for adoption of constitution and bylaws**

In any election held pursuant to subsection (a) of this section, the vote of a majority of those actually voting shall be necessary and sufficient for the adoption of a tribal constitution and bylaws.

**(d) Election of tribal officials provided for in constitution and bylaws; ballot requirements**

Not later than one hundred and twenty days after the tribe adopts a constitution and bylaws, the Interim Council shall conduct an election by secret ballot for the purpose of electing the individuals who will serve as tribal officials as pro-

vided in the tribal constitution and bylaws. For the purpose of this election and notwithstanding any provision in the tribal constitution and bylaws to the contrary, absentee balloting shall be permitted.

(Pub. L. 95-195, § 6, Nov. 18, 1977, 91 Stat. 1417.)

**§ 711e. Reservation**

**(a) Establishment**

Any reservation for the tribe shall be established by an Act of Congress enacted after November 18, 1977.

**(b) Plan; negotiation with tribe; approval by tribal officials; submittal to Congress**

Inasmuch as the reservation of the tribe has been terminated, the Secretary shall negotiate with the tribe, or with representatives of the tribe chosen by the tribe, concerning the establishment of a reservation for the tribe and shall, in accordance with subsections (c) and (d) of this section and within two years after November 18, 1977, develop a plan for the establishment of a reservation for the tribe. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 711d of this title, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

**(c) Notification and consultation**

To assure that legitimate State and local interests are not prejudiced by the creation of a reservation for the tribe, the Secretary, in developing a plan under subsection (b) of this section for the establishment of a reservation, shall notify and consult with all appropriate officials of the State of Oregon, all appropriate local governmental officials in the State of Oregon and any other interested parties. Such consultation shall include the following subjects:

- (1) the size and location of the reservation;
- (2) the effect the establishment of the reservation would have on State and local tax revenues;
- (3) the criminal and civil jurisdiction of the State of Oregon with respect to the reservation and persons on the reservation;
- (4) hunting, fishing, and trapping rights of the tribe and members of the tribe, on the reservation;
- (5) the provision of State and local services to the reservation and to the tribe and members of the tribe on the reservation; and
- (6) the provision of Federal services to the reservation and to the tribe and members of the tribe and the provision of services by the tribe to members of the tribe.

**(d) Provisions of plan**

Any plan developed under this section for the establishment of a reservation for the tribe shall provide that—

- (1) any real property transferred by the tribe or members of the tribe to the Secretary shall be taken in the name of the United States in trust for the benefit of the tribe and shall be the reservation for the tribe;
- (2) the establishment of such a reservation will not grant or restore to the tribe or any member of the tribe any hunting, fishing, or