

Council shall hold a general council meeting for the purpose of electing a person to fill such vacancy. 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 provided 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 trapping right of any nature, including any indirect or procedural right or advantage, on such reservation;

(3) the Secretary shall not accept any real property in trust for the benefit of the tribe or its members unless such real property is located within Lincoln County, State of Oregon;

(4) any real property taken in trust by the Secretary for the benefit of the tribe or its members shall be subject to all rights existing at the time such property is taken in trust, including liens, outstanding Federal, State, and local taxes, mortgages, outstanding indebtedness of any kind, easements, and all other obligations, and shall be subject to foreclosure and sale in accordance with the laws of the State of Oregon;

(5) the transfer of any real property to the Secretary in trust for the benefit of the tribe or its members shall be exempt from all Federal, State, and local taxation, and all such real property shall, as of the date of such transfer, be exempt from Federal, State, and local taxation; and

(6) the State of Oregon shall have civil and criminal jurisdiction with respect to the reservation and persons on the reservation in accordance with section 1360 of title 28 and section 1162 of title 18.

(e) Statement

The Secretary shall append to the plan a detailed statement describing the manner in which the notification and consultation prescribed by subsection (c) of this section was carried out and shall include any written comments with respect to the establishment of a reservation for the tribe submitted to the Secretary by State and local officials and other interested parties in the course of such consultation.

(Pub. L. 95-195, § 7, Nov. 18, 1977, 91 Stat. 1418.)

AUTHORITY TO ERECT PERMANENT IMPROVEMENTS ON LAND ACQUIRED FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Pub. L. 97-38, Aug. 14, 1981, 95 Stat. 938, provided: "That, notwithstanding any other provision of law or regulation, the Attorney General shall approve any deed or other instrument which—

"(1) conveys to the United States the land described in section 2 of the Act entitled 'An Act to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon', approved September 4, 1980 (94 Stat. 1073) [set out below], and

"(2) incorporates by reference the terms of the agreement entered into on September 18, 1980, by the city of Siletz, Oregon, the Confederated Tribes of Siletz Indians of Oregon, and the United States of America.

The Secretary of the Interior or the Confederated Tribes of Siletz Indians of Oregon may erect permanent improvements, improvements of a substantial value, or any other improvements authorized by law on such land after such land is conveyed to the United States."

ESTABLISHMENT OF RESERVATION FOR CONFEDERATED TRIBES OF SILETZ INDIANS OF OREGON

Pub. L. 96-340, Sept. 4, 1980, 94 Stat. 1072, as amended by Pub. L. 103-435, § 3, Nov. 2, 1994, 108 Stat. 4567; Pub. L. 105-256, § 7, Oct. 14, 1998, 112 Stat. 1897, established a reservation for the Confederated Tribes of Siletz Indians of Oregon, particularly describing, subject to all valid liens, rights-of-way, agreements, licenses, per-

mits, and easements as of Sept. 4, 1980, the parcel of land, consisting of approximately 3,630 acres in the State of Oregon as well as other parcels of land to be conveyed to the Secretary of the Interior, to be held in trust for the Confederated Tribes of Siletz Indians of Oregon, with all parcels of land subject to the provisions of section 461 et seq. of this title and the right of the Secretary of the Interior to establish, without compensation to such tribes, reasonable rights-of-way and easements to provide access to other Federal lands, no new or additional hunting, fishing, or trapping rights beyond the rights declared in the final judgment of the United States District Court in the action entitled Confederated Tribes of Siletz Indians of Oregon against State of Oregon, entered on May 2, 1980, be deemed, granted, or restored to the tribe or any member of the tribe, and civil and criminal jurisdiction, in accordance with section 1360 of Title 28, Judiciary and Judicial Procedure, and section 1162 of Title 18, Crimes and Criminal Procedure, to reside with the State of Oregon with respect to the reservation and any individual on the reservation.

§ 711f. Rules and regulations

The Secretary may make such rules and regulations as are necessary to carry out the purposes of this subchapter.

(Pub. L. 95-195, § 8, Nov. 18, 1977, 91 Stat. 1419.)

SUBCHAPTER XXX-B—COW CREEK BAND OF UMPQUA TRIBE OF OREGON

§ 712. Definitions

For the purposes of this subchapter—

(1) the term "tribe" means the Cow Creek Band of Umpqua Tribe of Indians; and

(2) the term "member", when used with respect to the tribe, means a person enrolled on the membership roll of the tribe in accordance with section 712c of this title.

(Pub. L. 97-391, § 2, Dec. 29, 1982, 96 Stat. 1960; Pub. L. 100-139, § 5(b), Oct. 26, 1987, 101 Stat. 827.)

AMENDMENTS

1987—Par. (1). Pub. L. 100-139 substituted "Umpqua Tribe of Indians" for "Umpqua Tribe of Oregon".

SHORT TITLE OF 1987 AMENDMENT

Pub. L. 100-139, § 1, Oct. 26, 1987, 101 Stat. 822, provided: "That this Act [amending this section and sections 712a to 712c of this title] may be cited as the 'Cow Creek Band of Umpqua Tribe of Indians Distribution of Judgment Funds Act of 1987'."

SHORT TITLE

Pub. L. 97-391, § 1, Dec. 29, 1982, 96 Stat. 1960, provided that: "This Act [enacting this subchapter] may be cited as the 'Cow Creek Band of Umpqua Tribe of Indians Recognition Act'."

§ 712a. Extension 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 Cow Creek Band of Umpqua Tribe of Indians. Except as otherwise provided in this subchapter, all laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians which are not inconsistent with any specific provision of this subchapter shall be applicable to the tribe.