

the tribe, with respect to the inclusion of any name, and any person, with respect to the exclusion of his name, may appeal to the Secretary, who shall make a final determination of each such appeal within ninety days after an appeal has been filed with him. The determination of the Secretary with respect to an appeal under this paragraph shall be final.

(3) After the initial election of tribal officials, the provisions of the tribal constitution and bylaws shall govern the verification of any requirements for membership in the tribe, and the Secretary and the Interim Council shall deliver their records and files, and other material relating to enrollment matters, to the tribal governing body.

**(d) Participation in elections and voting rights**

For purposes of section 764 and 765 of this title, a member who is eighteen years of age or older is entitled and eligible to be given notice of, attend, participate in, and vote at, general council meetings and to nominate candidates for, to run for any office in, and to vote in, elections of members to the Interim Council and to other tribal councils.

(Pub. L. 96-227, § 4, Apr. 3, 1980, 94 Stat. 318; Pub. L. 109-126, § 4, Dec. 7, 2005, 119 Stat. 2547.)

REFERENCES IN TEXT

Act of October 17, 1968, referred to in subsec. (b)(1)(D), is Pub. L. 90-584, Oct. 17, 1968, 82 Stat. 1147, which is not classified to the Code.

AMENDMENTS

2005—Subsec. (b)(1)(D), (E). Pub. L. 109-126 substituted “Cedar” for “Cedar City”.

**§ 764. Interim Council**

**(a) Nomination and election of members; notice; meetings; ballot requirements; approval by Secretary**

Within forty-five days after April 3, 1980, 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 within sixty days after April 3, 1980. Within forty-five days after such general council meeting the Secretary shall hold an election by secret ballot, absentee balloting to be permitted, to elect six members of the tribe to the Interim Council from among the nominees submitted to him from such general council meeting. The Secretary shall assure that notice of the time, place, and purpose of such meeting and election shall be provided to members described in section 763(d) of this title at least fifteen days before such general meeting and election. The ballot shall provide for write-in votes. The Secretary shall approve the Interim Council elected pursuant to this section if he is satisfied that the requirements of this section relating to the nominating and election process have been met. If he is not so satisfied, he shall hold another election under this section, with the general council meeting to nominate candidates for election to the Interim Council to be held within sixty days after such election.

**(b) Powers and authorities**

The Interim Council shall represent the tribe and its members in the implementation of this

subchapter and shall be the acting tribal governing body until tribal officials are elected pursuant to section 765(c) of this title and shall have no powers other than those given to it in accordance with this subchapter. The Interim Council shall have full authority and capacity to receive grants from and to make contracts with the Secretary and the Secretary of Health and Human Services with respect to Federal services and benefits for the tribe and its members: *Provided*, That no authority to enter into contracts or to make payments under this subchapter shall be effective except to such extent or in such amounts as are provided in advance in appropriation Acts. The Interim Council shall have the authority to bind the tribal governing body as the successor in interest to the Interim Council for a period extending not more than six months after the date on which the tribal governing body takes office. Except as provided in the preceding sentence, the Interim Council shall have no power or authority after the time when the duly-elected tribal governing body takes office.

**(c) Vacancies; notice; meeting; election**

Within thirty days after receiving notice of a vacancy on the Interim Council, the Interim 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 763(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. 96-227, § 5, Apr. 3, 1980, 94 Stat. 319; 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.

**§ 765. Tribal constitution and bylaws**

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

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 tribe. 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 sections 763(a), 763(b)(1), and 763(c)(1) of this title,

(2) made a final determination of all appeals filed under section 763(c)(2) of this title, and

(3) published in the Federal Register a certified copy of the membership roll of the tribe.

**(b) Pre-election duties and functions of Interim Council**

The Interim Council shall draft and distribute to each member described in section 763(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 and 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 for adoption**

In any election held pursuant to subsection (a) of this section, a 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 pursuant to 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. 96-227, § 6, Apr. 3, 1980, 94 Stat. 319.)

**§ 766. Tribal reservation**

**(a) Transfer of real property to Secretary; existing rights applicable and status of property subsequent to transfer; taxation**

The Secretary, within one year following April 3, 1980, shall accept the real property of members of the tribe or bands if conveyed or otherwise transferred to him, and real property held for the benefit of members of the tribe or bands if conveyed or otherwise transferred to him by the owner or owners of such land held for the benefit of the bands. Such property shall be subject to all valid existing rights including, but not limited to, liens, outstanding taxes (local and State), and mortgages. The land transferred to the Secretary pursuant to this subsection shall be subject to foreclosure or sale pursuant to the terms of any valid existing obligation in accordance with the laws of the State of Utah. Subject to the conditions imposed by this subsection, the land transferred shall be taken in the name of the United States in trust for the tribe or bands to be held as Indian lands are held, and shall be part of their reservation. The transfer of real property authorized by this section shall be exempt from all local, State, and Federal taxation. All real property transferred under this section shall, as of the date of transfer, be exempt from all local, State, and Federal taxation.

**(b) Exercise of civil and criminal jurisdiction by Utah**

The State of Utah shall exercise civil and criminal jurisdiction with respect to the reservation and persons on the reservation as if it had assumed jurisdiction pursuant to the Act of August 15, 1953 (67 Stat. 588), as amended by the

Act of April 11, 1968 (82 Stat. 79), and pursuant to sections 63-36-9 through 63-36-21 of the Utah State Code.

**(c) Plan for enlargement of reservation; negotiation; development; scope and approval**

Inasmuch as the Kanosh, Koosharem and Indian Peaks Bands of Paiute Indians lost land which had been their former reservations and the Cedar Band of Paiute Indians had never had a reservation, the Secretary shall negotiate with the tribe or bands, or with representatives of the tribe chosen by the tribe or bands, concerning the enlargement of the reservation for the tribe established pursuant to subsection (a) of this section and shall within two years after April 3, 1980, develop a plan for the enlargement of the reservation for the tribe. The plan shall include acquisition of not to exceed a total of fifteen thousand acres of land to be selected from available public, State, or private lands within Beaver, Iron, Millard, Sevier, or Washington Counties, Utah. Upon approval of such plan by the tribal officials elected under the tribal constitution and bylaws adopted pursuant to section 765 of this title, the Secretary shall submit such plan, in the form of proposed legislation, to the Congress.

**(d) Notification and consultative requirements for enlargement plan**

To assure that legitimate State and local interests are not prejudiced by the enlargement of the reservation for the tribe, the Secretary, in developing the plan under subsection (c) of this section for the enlargement of the reservation for the tribe, shall notify and consult with all appropriate officials of the State of Utah, all appropriate local government officials in the affected five county area in the State of Utah and any other interested parties. Such consultation shall include the following subjects:

- (1) the size and location of the additions to the reservation;
- (2) the effect the enlargement of the reservation would have on State and local tax revenues;
- (3) the criminal and civil jurisdiction of the State of Utah 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.

**(e) Contents of enlargement plan**

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

- (1) the enlargement of the 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 addition to the reservation;
- (2) the Secretary shall not accept any real property in trust for the benefit of the tribe or