

Bylaws of the Maine Indian Tribal-State Commission

The Maine Indian Tribal-State Commission is established pursuant to the Maine Implementing Act (30 MRSA 56212.) The Commission serves as a joint tribal-state governing body with authority principally of an advisory nature.

I. Organization

- A. Membership.** The Commission consists of thirteen full-voting members, six appointed by the Governor of the State, subject to review by the Joint Standing Committee on Judiciary and confirmation by the Legislature, two each appointed by the Houlton Band of Maliseet Indians, Passamaquoddy Tribe and the Penobscot Nation, and a Chair selected in accordance with the procedure specified in section I-E.
- B. Participation of Other Federally Recognized Maine Tribes.** All federally recognized tribes that do not belong to MITSC under 30 MRSA S6212 are invited to participate in MITSC as official observers.
- C. Terms.** Other than the Chair, each member shall serve a term of three years and may be reappointed. The Chair serves a four-year term, except when appointed for an interim term as specified in section I-E. The Chair may be reelected.
- D. Vacancies.** In the event of death, replacement, resignation, or disability of any member or the Chair, the appointing authority may fill the vacancy for the unexpired term.
- E. Chair.** The Commission, by a majority vote of its twelve members, shall select a person who is a resident of the State to act as Chair. In the event that Commission members are unable to select a Chair within 120 days of the expiration of the Chair's term or the occurrence of a vacancy, the Governor of the State, after consulting with the Chiefs of the Houlton Band of Maliseet Indians, Penobscot Nation and Passamaquoddy Tribes, shall appoint an interim Chair for a period of one year or until such time as the Commission selects a Chair by a majority vote of its twelve members, whichever is sooner.
- F. Quorum; Vote.** Nine members shall constitute a quorum and no decision or action shall be valid unless seven members vote in favor of such decision or action. No matter substantially affecting any particular government will be acted on without at least one representative from the affected government present.

In the event that a seat on the Commission becomes vacant for 3 months, either because a government has not filled it or a government has formally indicated that it has decided to suspend participation, then the MITSC will suspend the usual quorum requirements as follows until such a vacancy is filled:

Each vacancy will reduce the quorum and the number of commissioners required to carry a vote by one.

The requirement that any potentially affected government(s) be present during the discussion and vote remains in place.

When the MITSC is operating under these circumstances the following process will be adhered to:

1. All governments and MITSC commissioners will be notified and apprised of the reasons when the MITSC operates at a reduced quorum.
2. As required under MITSC Bylaw II. D new questions or issues presented to the MITSC will not be acted upon until a subsequent public meeting. These pending decisions or motions will be sent to the governments and nonparticipating commissioners. The number of commissioners required to carry a vote may suspend this bylaw.

G. Call of Meetings. The Chair or any seven members of the Commission may call a meeting. There shall be seven days' notice given to the members prior to a meeting. In addition, notice of all meetings, including location, date, time, and the identity and phone number of a contact person who may be contacted for more information, shall be placed in the Legislative Calendar and sent to the Tribal Governors and Councils.

H. Conduct of Meetings. All meeting proceedings shall be open to the public. Only members of the Commission may request that an item be placed on the agenda for discussion. As to each agenda item, the Chair or another member will define the issue to be discussed, then members may discuss the item, then the Chair may open the discussion up to the public for their comments within the limits of available time, then further discussion may be held by members only, and then a vote may be taken.

I. Record. A written record of each meeting shall be prepared and approved by the Commission and kept permanently on file in the archives of the Commission, except that no written record shall be taken during executive sessions. Minutes of any meetings of the Commission may be released at the discretion of the Chair before they have been approved by the Commission, provided that they are clearly marked with the following statement: "Not for attribution until formally approved by the Commission."

J. Executive Sessions. The Commission may go into executive session only pursuant to the following requirements:

1. No rules, resolutions, contracts, appointments or other official actions may be finally approved at executive sessions.
2. Executive sessions may be called only by a public recorded vote of seven Commission members present and voting.

3. A motion to go into executive session shall indicate the nature of the business to be discussed. No other matters may be considered in that particular executive session.
4. A motion to go into executive session may include participants other than Commission members, as the Commission deems appropriate.
5. Deliberations may be conducted in executive sessions only on the following matters:
 - a. The employment, appointment, assignment, duties, compensation, evaluation, disciplining, resignation, or in the event of any dismissal of any appointee serving on the Commission or any employee or independent contractor working for the Commission;
 - b. Consultations between the Commission and an attorney concerning its legal rights and duties on pending or contemplated litigation;
 - c. Matters where, in the Commission's view, premature general public knowledge would cause substantial harm to a Tribe, the State, or the Commission or to the relationship between the State and one or more of the Tribes; and
 - d. Discussions of information contained in records made, maintained, or received by the Commission when access by the general public to those records is prohibited by statute or tribal ordinance.

K. Amending Bylaws. These bylaws can be amended at any meeting of the Commission, provided that the proposed amendment has been presented at the previous meeting.

II. Duties

The Commission is charged under the terms of the Act to continually review the effectiveness of the Act; to assist with the implementation of certain provisions of the Act; to continually review the social, economic, and legal relationship between the Houlton Band of Maliseet Indians, Passamaquoddy Tribe, Penobscot Nation, and the State; and to make such reports and recommendations to the Legislature, the Houlton Band of Maliseet Indians, Passamaquoddy Tribe, and the Penobscot Nation as the Commission deems appropriate. With respect to the Commission's duties to assist with implementation, the following specific charges are authorized under the Act.

A. Inclusion of Lands as Indian Territory. No lands held or acquired by or in trust for the Passamaquoddy Tribe or the Penobscot Nation other than those described in 30 MRSA 56205, sub-SSI, 2, 3, and 4 shall be included within or added to Passamaquoddy Indian Territory or Penobscot Indian Territory except upon recommendation by the Commission to the State, the Passamaquoddy, and the Penobscot Governments. In reaching this recommendation, the Commission shall verify the following:

1. The Tribal Government seeking the addition of lands to Indian Territory certifies that it has approved such action in accordance with its governing laws and procedures.
2. In the case where the lands are within a city, town, village, or plantation, the legislative body of that municipality certifies that it has approved such action in accordance with its governing laws and procedures.

Upon receiving the certification(s), the Commission shall place a legal advertisement which requests public comment on the matter in at least two newspapers of statewide distribution and, when appropriate, one of regional circulation. At least ten days from the latest date the advertisement appears shall be allowed for comments to be received. If, after reviewing the comments, the Commission determines that there are important issues of regional or statewide significance involved, the Commission may choose to conduct a public hearing. At least ten days' public notice shall be given for the hearing.

In making a recommendation the Commission shall consider the comments received and any issues raised which are of regional or statewide significance; suggest any inconsistency with the Act; or concern the social, economic, or legal relationship between the State and Tribal Governments. The Commission may consider the proposed usage of the land as set forth by the Tribal Government, but shall not consider any issues regarding possible restrictions which might be put on the use of the lands by the Tribal Government if they are restrictions which any landowner, Indian or non-Indian, has the right to implement.

B. Promulgation of Fishing Rules and Regulations.

Subject to any limitations of 30 MRSA 56207 sub-S6 (Supervision of Commissioner of Inland Fisheries and Wildlife), the Commission shall have exclusive authority to promulgate fishing rules and regulations on:

1. Any pond other than those specified in 30 MRSA 56207, sub-S1, paragraph B, 50% or more of the linear shoreline of which is within Indian Territory;
2. Any section of a river or stream both sides of which are within Indian Territory; and
3. Any section of a river or stream one side of which is within Indian Territory for a continuous length of 1/2 mile or more.

In promulgating such rules or regulations the Commission shall consider and balance the need to preserve and protect existing and future sport and commercial fisheries, the historical Indian and non-Indian interests, the needs or desires of the Tribes to establish fishery practices for the sustenance

of the Tribes or to contribute to the economic independence of the Tribes, the traditional fishing techniques employed by and ceremonial practices of Indians of Maine, and the ecological inter-relationship between the fishery regulated by the Commission and other fisheries throughout the State. Such regulation may

include without limitation provisions on the method, manner, bag, and size limits and season for fishing.

The Commission's rules or regulations shall be applicable equally on a nondiscriminatory basis to all persons regardless of whether such person is a member of the Passamaquoddy Tribe or Penobscot Nation. Rules and regulations promulgated by the Commission may include the imposition of fees and permits or license requirements on users of such waters other than members of the Passamaquoddy Tribe and Penobscot Nation. In adopting rules or regulations, the Commission shall comply with the Administrative Procedures Act.

C. Implementation of Non-Indian Fish and Wildlife Policies-Protecting Tribal Lands and Waters

The Commission shall undertake appropriate studies, consult with the Houlton Band of Maliseet Indians, Passamaquoddy Tribe and the Penobscot Nation and landowners and state officials, and make recommendations to the Maine Commissioner of Inland Fisheries and Wildlife and the Maine Legislature with respect to implementation of fish and wildlife management policies on non-Indian lands in order to protect fish and wildlife stocks on lands and water subject to regulation by the Houlton Band of Maliseet Indians, the Passamaquoddy Tribe, the Penobscot Nation or the Commission.

The Chair shall appoint, with the approval of the Commission, a committee representative of the Houlton Band of Maliseet Indians, Penobscot Nation, Passamaquoddy Tribe and the State that shall undertake studies and prepare reports and recommendations for approval by the Commission for presentation to the Maine Commissioner of Inland Fisheries and Wildlife and the Maine Legislature. The Commission may engage appropriate experts and other resources outside the Commission, if adequate financial resources are available.

- D. Future Indian Communities.** Any 25 or more adult members of either the Passamaquoddy Tribe or the Penobscot Nation residing within their respective Indian Territory and in reasonable proximity to each other may petition the Commission for designation of an “extended reservation”. If the Commission determines, after investigation, that the petitioning tribal members constitute an “extended reservation”, the Commission shall establish the boundaries of this “extended reservation” and shall recommend to the Legislature that, subject to the approval of the governing body of the Tribe or Nation involved, it amend this Act to extend the jurisdiction of the respective Tribe or Nation to the “extended reservation”. The boundaries of any “extended reservation” shall not exceed those reasonable and necessary to encompass the petitioning tribal members.

In addition to the above duties, legislative bills amending 30 MRSA 56205, sub51, paragraph B or sub-S2, paragraph B, and adding lands to or including land within Indian Territory shall receive the recommendation of the Commission to the Legislature prior to enactment.

- E. Reports and Recommendations to the Legislature, the Houlton Band of Maliseet Indians, the Passamaquoddy Tribes, and the Penobscot Nation.**

At each meeting of the Commission, the Executive Director routinely shall inform MITSC whether it has received since its previous meeting, requests for comment or vote on pending pieces of legislation, or questions within MITSC's purview. If such requests have been received, the Executive Director shall distribute copies of the requests to Commissioners. MITSC will not act upon motions relating to a request until a subsequent meeting, open to the public, is scheduled, publicly announced, and held. This bylaw may be waived only if,

after a discussion of the underlying substantive motion, eight members of the Commission vote in favor of a procedural motion to proceed to an immediate vote.

III. Operations

- A. Budget.** The Commission shall operate on a July 1 to June 30 fiscal year.

- B. Per Diems and Expenses.** Services that are eligible for per diem payments shall include participation in Commission meetings and Commission committee meetings. For purposes of per diem payments remote attendance at Commission meetings and committee meetings will be treated the same as in-person attendance. Reasonable documented expenses will be reimbursed for Commission meetings and Commission committee meetings. Reasonable documented expenses for attendance by Commissioners at other MITSC-related proceedings and events will be reimbursed on request if authorized by the Chairperson or at a Commission meeting. Commission members shall be paid \$75 per day for their services and shall be reimbursed for reasonable

expenses including mileage at the applicable rate for business use of an automobile set by the U.S. Internal Revenue Service. Upon the vote of the Commission, the Chair also may be paid a supplementary stipend for his/her services each month.

C. Personnel. The Commission shall employ or contract with such personnel as it deems necessary and desirable in order to effectively discharge its duties

and responsibilities. The Commission may establish a job description for its personnel.

D. Financial Reports. At each meeting, the Commission shall receive from its personnel or the Chair a statement of current financial condition.

E. Annual Report. At the close of each year the Commission shall prepare an annual report to be transmitted to the State, the Penobscot Nation, the Passamaquoddy Tribe, and the Houlton Band of Maliseet Indians.