

Committee on Natural Resources

Rob Bishop, Chairman

Markup Memorandum

March 14, 2016

To: All Natural Resources Committee Members

From: Majority Committee Staff
Subcommittee on Indian, Insular, and Alaska Native Affairs (x6-9725)

Markup: H.R. 3211 (Rep. Kurt Schrader), To provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon.
March 15-16, 2016; 1324 Longworth HOB

H.R. 3211 (Rep. Kurt Schrader), To provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon.

Summary of the bill

H.R. 3211 was introduced by Rep. Schrader on July 23, 2015 and has been referred to the Subcommittee on Indian, Insular, and Alaska Native Affairs. The bill would amend the Siletz Tribe Indian Restoration Act¹ to ease the process for the Siletz Indian Tribe to apply for trust land within the original boundaries of the former 1855 Siletz Coast Reservation², which encompassed a large area on the coast of Oregon within the counties of Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill. The bill does not extend the current reservation boundaries to that of the original reservation, nor does the bill expand tribal jurisdiction area to cover the original reservation. Gaming as regulated pursuant to the Indian Gaming Regulatory Act³ would be prohibited on lands which could be taken into trust under the bill.

Background

The Confederated Tribes of Siletz Indians (“Siletz” or “tribe”) comprise a number of bands of Oregon Indians who were located to a 1.1 million-acre Reservation set aside in 1855.

In 1954, federal supervision over the Siletz was terminated by Act of Congress.⁴ This occurred in the context of the “termination era” when Congress determined that its policy of recognizing tribes, holding their lands in a federal trust, and supervising their affairs made Indians wards of the government and thereby restricted their freedom to use their lands.

After a number of tribes in various parts of the United States were terminated by Congress, Indian people objected to the policy arguing that they were not fully consulted or informed as to its consequences.

¹ 25 U.S.C. §711e.

² Executive Order Issued by Franklin Pierce (November 9, 1855).

³ 25 U.S.C. §2701 et. seq.

⁴ 25 U.S.C. § 691 et. seq.

Over the years, Congress has restored a number of the terminated tribes to recognized tribal status. In 1977, Congress enacted a bill to restore the Confederated Tribes of Siletz Indians of Oregon.⁵ The Act established a process for the tribe to organize, and further required the Department of the Interior and the tribe to develop a plan for creating a reservation, but required any reservation to be established through an Act of Congress.

In 1980, Congress established a reservation for the Siletz, consisting of 3,630 acres as well as a parcel known as Government Hill that was conveyed by the city of Siletz.⁶ The lands are mostly timberlands. Over the years, the tribe has increased its land holdings to more than 15,000 acres, mostly in Lincoln and Douglas Counties, Oregon. The tribe owns a casino, resort, and a number of other businesses.

Analysis of H.R. 3211

The bill authorizes Interior to process trust land applications submitted by Siletz under its on-reservation standards⁷ as long as such lands are within the boundaries of the 1855 Siletz Coast Reservation in Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill Counties in Oregon. The bill will shorten the length of time and reduce the regulatory burden for Interior to consider the tribe's trust land applications when the lands are within this area.

H.R. 3211 prohibits Indian gaming on any of the lands taken in trust under this bill.

Prior Committee Action

In the 113th Congress, an identical bill, H.R. 931, passed the House of Representatives as a standalone and as part of a larger measure.⁸

Cost

The identical Senate companion, S. 817 was estimated by the CBO to have no effect on the federal budget.⁹

Administration's Position

At a hearing on the bill in the 113th Congress, Bureau of Indian Affairs Director Mike Black testified in support of the bill.

Anticipated Amendments:

None.

⁵ P.L. 95-195, Siletz Indian Tribe Restoration Act.

⁶ P.L. 96-340; 94 Stat. 1072.

⁷ The implementing regulations for the Secretary's acquisition of land in trust for Indians are codified in 25 C.F.R. Part 151.

⁸ See H.R. 5701, the Western Oregon Indian Tribal Lands Act.

⁹ <https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/costestimate/s817.pdf>.

Showing Current Law as amended by H.R. 3211

[new text appears underlined]

The Siletz Tribe Indian Restoration Act (Public Law 95-195)

Section 7 (25 U.S.C. 711e)

§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) 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) 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) 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.

(f) Treatment of Certain Property

(1) IN GENERAL-

(A) TITLE- The Secretary may accept title to any additional number of acres of real property located within the boundaries of the original 1855 Siletz Coast Reservation established by Executive order dated November 9, 1855, comprised of land within the political boundaries of Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill Counties in the State of Oregon, if that real property is conveyed or otherwise transferred to the United States by or on behalf of the tribe.

(B) TRUST- Land to which title is accepted by the Secretary under this paragraph shall be held in trust by the United States for the benefit of the tribe.

(2) TREATMENT AS PART OF RESERVATION- All real property that is taken into trust under paragraph (1) shall--

(A) be considered and evaluated as an on-reservation acquisition under part 151.10 of title 25, Code of Federal Regulations (or successor regulations); and

(B) become part of the reservation of the tribe.

(3) PROHIBITION ON GAMING- Any real property taken into trust under paragraph (1) shall not be eligible, or used, for any gaming activity carried out under the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).