

Regular Session, 2014

HOUSE BILL NO. 441

BY REPRESENTATIVE HARRISON

INDIAN AFFAIRS: Abolishes the Governor's Office of Indian Affairs and creates and provides for the Commission on Indian Affairs as its successor

1 AN ACT

2 To amend and reenact R.S. 29:725.6(B)(6)(a)(i)(ii), R.S. 36:4(G), the heading of Chapter 31
3 of Title 46 of the Louisiana Revised Statutes of 1950, R.S. 46:2301 and
4 2302(introductory paragraph), (6), (7), and (8), and R.S. 47:463.78(A) and (D)(1)
5 and (3), relative to Indian affairs; to abolish the Governor's Office of Indian Affairs
6 and to create and provide for the Commission on Indian Affairs, including its
7 composition, officers, powers and duties, and compensation; to provide that the
8 commission is the successor of the office; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 29:725.6(B)(6)(a)(i)(ii) is hereby amended and reenacted to read as
11 follows:

12 §725.6. State Unified Command Group

13 * * *

14 B.

15 * * *

16 (6) There shall be three permanent subcommittees of the UCG as provided
17 for in this Paragraph. In addition, the UCG may establish other subcommittees as
18 it deems advisable and feasible. Except as provided in Subparagraph (a) of this
19 Paragraph, only the UCG may take official action.

1 (a)(i) An "interoperability subcommittee" is hereby established and shall be
2 composed of the following members:

3 * * *

4 (ii) Executive director of the ~~Governor's Office of~~ Commission on Indian
5 Affairs; or his designee.

6 * * *

7 Section 2. R.S. 36:4(G) is hereby amended and reenacted to read as follows:

8 §4. Structure of executive branch of state government

9 * * *

10 G. The ~~Governor's Office of~~ Commission on Indian Affairs (R.S. 46:2301=
11 ~~2303 et seq.~~) shall be placed within the office of the governor and shall perform and
12 exercise its powers, duties, functions, and responsibilities in the manner provided for
13 agencies transferred in accordance with the provisions of R.S. 36:802.

14 * * *

15 Section 3. The heading of Chapter 31 of Title 46 of the Louisiana Revised Statutes
16 of 1950 and R.S. 46:2301 and 2302(introductory paragraph), (6), (7), and (8) are hereby
17 amended and reenacted to read as follows:

18 CHAPTER 31. ~~GOVERNOR'S OFFICE OF~~ COMMISSION ON INDIAN AFFAIRS

19 §2301. Commission on Indian Affairs; ~~Creation~~ creation; officers; personnel

20 A. An agency of the state to be known as the "Governor's Office of Indian
21 Affairs" The Commission on Indian Affairs is hereby created and established as a
22 state agency in the office of the governor. ~~Said office~~ The commission shall exercise
23 the powers and duties ~~hereinafter set forth~~ provided in this Chapter or otherwise
24 provided by law.

25 B. The commission shall be comprised of fourteen Indian members. One
26 member shall be appointed by each of the following tribes or bands in Louisiana:

27 (1) Chitimacha Tribe.

28 (2) Coushatta Tribe.

29 (3) Jena Band of Choctaws.

- 1 (4) Tunica/Biloxi Tribe.
- 2 (5) Adai Caddo Tribe.
- 3 (6) Bayou Lafourche Band of the Biloxi-Chitimacha Confederation.
- 4 (7) Grand Caillou/Dulac Band of the Biloxi-Chitimacha Confederation.
- 5 (8) Isle de Jean Charles Band of the Biloxi-Chitimacha Confederation.
- 6 (9) Choctaw-Apache Community of Ebarb.
- 7 (10) Clifton Choctaw Tribe.
- 8 (11) Four Winds Tribe.
- 9 (12) Louisiana Band of Choctaw.
- 10 (13) Pointe-Au-Chien Tribe.
- 11 (14) United Houma Nation.

12 C. Each member shall serve a four-year term after initial terms as provided
13 in this Subsection. The initial members appointed to the commission shall serve for
14 the following terms as determined by the drawing of lots at the first meeting of the
15 commission: three for terms of one year, three for terms of two years, four for terms
16 of three years, and four for terms of four years. Thereafter, appointments shall be
17 for terms of four years. Each member of the commission shall hold office until his
18 successor has been appointed and has taken office. A vacancy shall be filled in the
19 manner of the original appointment for the remainder of the unexpired term.

20 D. The commission shall meet and organize immediately after appointment
21 of the members. The commission shall elect from its membership a chairman and
22 such other officers as it deems necessary. The duties of all officers shall be those
23 customarily exercised by such officers. The commission shall adopt rules for the
24 transaction of its business and shall keep a record of its resolutions, transactions,
25 findings, and determinations. Eight members shall constitute a quorum. The
26 domicile of the commission shall be East Baton Rouge Parish.

27 E. The commission shall meet at least once in each quarter of the fiscal year,
28 and as often thereafter as shall be deemed necessary by the chairman.

1 license plate shall be of a color and design selected by the ~~Governor's Office of~~
2 Commission on Indian Affairs, R.S. 46:2301 et seq., and be in compliance with the
3 requirements of R.S. 47:463(A)(3).

4 * * *

5 D.(1) The department shall collect the additional twenty-five dollar donation
6 and forward it to the ~~Governor's Office of~~ Commission on Indian Affairs. The
7 activities of the ~~Governor's Office of~~ Commission on Indian Affairs with respect to
8 the donations for the Native American prestige license plate are hereby deemed a
9 public purpose and shall qualify as a cooperative endeavor under the provisions of
10 Article VII, Section 14(C) of the Constitution of Louisiana.

11 * * *

12 (3) The ~~Governor's Office of~~ Commission on Indian Affairs shall be
13 responsible for the disbursing of the funds and for establishing the scholarship
14 program, including but not limited to adopting rules and regulations relative to
15 academic standards for scholarship recipients.

16 * * *

17 Section 5.(A) Prior to August 1, 2014, the governor shall notify the Indian tribes and
18 bands who are to make appointments to the commission as provided in this Act and shall
19 coordinate and facilitate the appointment of the initial members of the commission as
20 provided in this Act.

21 (B) On August 1, 2014, the Governor's Office of Indian Affairs shall be abolished
22 and the Commission on Indian Affairs shall be created. The commission shall be the
23 successor of the abolished office. All unfinished business, references in laws and
24 documents, employees, property, obligations, funds and appropriations, and books and
25 records of the office shall be transferred as provided in this Section. Upon the abolition of
26 the office, any pending or unfinished business of the office shall be taken over and be
27 completed by the commission with the same power and authority as that of the office, and
28 the commission shall be the successor in every way to the office for the purpose of
29 completing such business. Any reference in laws and documents to the office shall be

1 deemed to apply to the commission. Any legal proceeding to which the office is a party and
2 that is filed, initiated, or pending before any court on the effective date of this Section, and
3 all documents involved in or affected by said legal proceeding, shall retain their
4 effectiveness and shall be continued in the name of the commission. All further legal
5 proceedings and documents in the continuation, disposition, and enforcement of such legal
6 proceeding shall be in the name of the commission, and the commission shall be substituted
7 for the office without necessity for amendment of any document. This Act shall not be
8 construed so as to impair the effectiveness of any rule or policy of the office, and any such
9 rule or policy shall remain effective as provided therein or until changed as otherwise
10 provided by law. This Act shall not be construed so as to impair the contractual or other
11 obligations of the office or of the state of Louisiana. The commission shall be the successor
12 in every way to the office, including all of its obligations and debts. All obligations of the
13 office shall be the obligations of the commission. All dedications and allocations of revenues
14 and sources of revenues heretofore made shall continue in the same manner, to the same
15 extent, and for the same purposes as were provided prior to the enactment of this Act, unless
16 and until other provision is made therefor. All appropriations made to the office shall be
17 deemed to have been made to the commission, and all funds appropriated to or for the office
18 shall be transferred to the commission. This Act shall not be construed or applied in any way
19 which will prevent full compliance by the state, or any department, office, or agency thereof,
20 with the requirements of any Act of the Congress of the United States or any regulation
21 made thereunder by which federal aid or other federal assistance has been or hereafter is
22 made available. All books, papers, records, money, actions, and other property of every
23 kind, movable and immovable, real and personal, heretofore possessed, controlled, or used
24 by the office is hereby transferred to the commission. All employees heretofore engaged in
25 the performance of duties of the office, insofar as practicable and necessary are hereby
26 transferred to the commission and shall continue to perform the duties heretofore performed,
27 subject to applicable state civil service laws, rules, and regulations, this Act, and other
28 applicable laws. Subject to such laws, positions in the unclassified service shall remain in
29 the unclassified service.

1 Section 6.(A) Section 5 of this Act and this Section shall become effective upon
2 signature of this Act by the governor or, if this Act is not signed by the governor, upon
3 expiration of the time for bills to become law without signature by the governor, as provided
4 by Article III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the
5 governor and subsequently approved by the legislature, Section 5 of this Act and this Section
6 shall become effective on the day following such approval.

7 (B) The provisions of Sections 1 through 4 of this Act shall become effective on
8 August 1, 2014.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Harrison

HB No. 441

Abstract: Abolishes the Governor's Office of Indian Affairs and creates and provides for the Commission on Indian Affairs as its successor.

Present law creates the Governor's Office of Indian Affairs as a state agency in the office of the governor under provisions that retain its policy-making powers. Provides that the office is administered by an executive director who serves at the governor's pleasure and who employs necessary staff.

Present law provides the following powers and duties for the Office of Indian Affairs:

- (1) Administer the programs relative to La. Indians.
- (2) Collect facts and statistics and conduct special studies of conditions pertaining to the employment, health, education, financial status, recreation, social adjustment, or other conditions affecting the welfare of the Indian people.
- (3) Provide for a mutual exchange of ideas and information on national, state, and local levels.
- (4) Make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of Indians.
- (5) Coordinate the services of all agencies in the state serving Indians and require reports from such state agencies and institutions.
- (6) Serve as the state's official negotiating agent upon which federally recognized tribes in the state may serve notice of any request to negotiate state tribal compacts.
- (7) Make recommendations to the governor for the composition of the negotiating team for the state.
- (8) Make recommendations regarding proposed compacts and submit them to the governor for his approval and signature.

- (9) Prepare and submit an annual report to the legislature and to the governor.
- (10) Adopt and promulgate rules and regulations that are deemed necessary to implement the provisions of present law.

Proposed law abolishes the Governor's Office of Indian Affairs and creates the Commission on Indian Affairs as a state agency in the office of the governor under provisions that retain its policy-making powers. Provides that the commission shall have 14 members, one member appointed by each of the following tribes or bands in La.:

- (1) Chitimacha Tribe.
- (2) Coushatta Tribe.
- (3) Jena Band of Choctaws.
- (4) Tunica/Biloxi Tribe.
- (5) Adai Caddo Tribe.
- (6) Bayou Lafourche Band of the Biloxi-Chitimacha Confederation.
- (7) Grand Caillou/Dulac Band of the Biloxi-Chitimacha Confederation.
- (8) Isle de Jean Charles Band of the Biloxi-Chitimacha Confederation.
- (9) Choctaw-Apache Community of Ebarb.
- (10) Clifton Choctaw Tribe.
- (11) Four Winds Tribe.
- (12) Louisiana Band of Choctaw.
- (13) Pointe-Au-Chien Tribe.
- (14) United Houma Nation.

Proposed law provides for staggered four-year terms for commission members. Provides that the commission shall elect from its membership a chairman and such other officers it deems necessary, adopt rules for the transaction of its business, and keep records. Provides that eight members shall constitute a quorum, and that the commission domicile shall be East Baton Rouge Parish. Requires commission meetings at least once a quarter and as deemed necessary by the chairman. Provides for members to receive a per diem of \$100 for attendance at meetings of the commission and its committees and be reimbursed for actual travel and other expenses in the performance of their duties in accordance with travel regulations of the division of administration.

Proposed law provides that the commission shall be administered by an executive director appointed by the commission to serve at its pleasure who shall employ necessary staff. Replaces the executive director of the abolished office with the executive director of the commission as a member of the interoperability subcommittee of the Unified Command Group.

Proposed law grants the commission the powers provided in present law for the abolished office, except:

- (1) Present law provides that the office serve as the state's official negotiating agent upon which federally recognized tribes in the state may serve notice of any request to negotiate state tribal compacts. Proposed law removes reference to the commission being the state's official *negotiating* agent.
- (2) Present law provides that the office makes recommendations to the governor for the composition of the negotiating team for the state. Proposed law instead provides that the commission recommends individuals with expertise in Indian affairs with whom the governor may consult regarding proposed compacts.
- (3) Proposed law retains present law granting the commission power to make recommendations regarding proposed compacts but removes present law power of the office to submit them to the governor for his approval and signature.

Proposed law also provides for the commission to be responsible for functions of the abolished office relative to special prestige license plates for the Native American culture and use of funds derived therefrom for academic or financial need-based scholarships for students of Native American ancestry.

Proposed law provides that the office is abolished and the commission created on Aug. 1, 2014, and the commission shall be the successor of the abolished office. Provides for the transfer to the commission of all unfinished business, references in laws and documents, employees, property, obligations, funds and appropriations, and books and records of the office. Provides for the governor to notify the Indian tribes and bands who are to make appointments to the commission and coordinate and facilitate the appointment of the initial members of the commission prior to Aug. 1, 2014.

Effective Aug. 1, 2014, except provisions for the governor to facilitate the appointment of initial members and for the commission to be the successor of the office are effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 29:725.6(B)(6)(a)(i)(ii), R.S. 36:4(G), the heading of Chapter 31 of Title 46 of the La. Revised Statutes of 1950, R.S. 46:2301 and 2302(intro. para.), (6), (7), and (8), and R.S. 47:463.78(A) and (D)(1) and (3))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Instead of granting the commission the same powers as the abolished office, grants the commission the same powers with two exceptions:
 - a. Provides for the commission to serve as the state's official agent upon which federally recognized tribes may serve notice of a request to negotiate state tribal compacts, but does not make the commission the state's official *negotiating* agent.
 - b. Grants the commission power to make recommendations regarding proposed compacts but does not grant the commission present law power of the office to submit them to the governor for his approval and signature.

House Floor Amendments to the engrossed bill.

1. Provides for the commission to be a state agency in the office of the governor under provisions that retain its policy-making powers, instead of an independent

agency in the Dept. of State, and provides for the governor instead of the secretary of state to facilitate appointment of initial commission members.

2. Provides for the commission to recommend individuals with expertise in Indian affairs with whom the governor may consult regarding proposed compacts instead of providing for the commission to make recommendations to the governor for the composition of the negotiating team for the state.