

108TH CONGRESS
2D SESSION

H. R. 4933

To require the prompt review by the Secretary of the Interior of the long-standing petition by the Mashpee Wampanoag Tribe for Federal recognition, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2004

Mr. DELAHUNT (for himself, Mr. MARKEY, Mr. CAPUANO, Mr. FRANK of Massachusetts, Mr. LYNCH, Mr. MCGOVERN, Mr. MEEHAN, Mr. OLVER, and Mr. NEAL of Massachusetts) introduced the following bill; which was referred to the Committee on Resources

A BILL

To require the prompt review by the Secretary of the Interior of the long-standing petition by the Mashpee Wampanoag Tribe for Federal recognition, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; FINDINGS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Mashpee Wampanoag Tribal Petition Act”.

6 (b) FINDINGS.—Congress finds the following:

7 (1) The Mashpee Wampanoag Tribe is an
8 American Indian tribe as recognized by the State of

1 Massachusetts with a main land base consisting of
2 55 tribally owned acres in the town of Mashpee,
3 Massachusetts, which is located near the south-
4 western end of Cape Cod.

5 (2) On November 9, 1620, the Mashpee
6 Wampanoag Tribe greeted 102 pilgrims from Plym-
7 outh, England, at what became known as “Plymouth
8 Rock”.

9 (3) After teaching the Pilgrims to survive and
10 flourish in their new land, the Mashpee Wampanoag
11 Tribe hosted the first Thanksgiving in 1621.

12 (4) In 1685, King James II of England allotted
13 16,500 acres to the Mashpee Wampanoag Tribe. In
14 1835, an additional allotment of approximately
15 10,000 acres was granted to individual Mashpee
16 Wampanoags by an act of the General Court of
17 Massachusetts.

18 (5) In 1976, the Mashpee Wampanoag Tribe
19 submitted a petition for Federal recognition to the
20 Secretary of the Interior.

21 (6) In 1996, the Mashpee Wampanoag Tribe
22 was placed on the Bureau of Indian Affairs’ “ready,
23 waiting for active consideration” list.

24 (7) In December 2001, a United States district
25 court ruled that the Bureau of Indian Affairs unduly

1 delayed the Mashpee Wampanoag Tribe's Federal
 2 recognition petition and ordered the Bureau to reach
 3 an initial decision on recognition within six months.

4 (8) Notwithstanding the order of the district
 5 court, the Mashpee Wampanoag Tribe still awaits a
 6 decision on Federal recognition 28 years after peti-
 7 tioning the Secretary of the Interior and 384 years
 8 after welcoming the Pilgrims at Plymouth Rock.

9 **SEC. 2. PROMPT CONSIDERATION OF MASHPEE**
 10 **WAMPANOAG TRIBE PETITION REQUESTING**
 11 **FEDERAL RECOGNITION AS AN INDIAN**
 12 **TRIBE.**

13 (a) TIME PERIOD FOR PROPOSED FINDING.—Not
 14 later than four months after the date of the enactment
 15 of this Act, the Assistant Secretary of the Interior for In-
 16 dian Affairs shall publish a proposed finding with respect
 17 to the petition for Federal recognition as an Indian tribe
 18 by the Secretary of the Interior consistent with part 83
 19 of title 25, Code of Federal Regulations, submitted by the
 20 Mashpee Wampanoag Tribe in 1976.

21 (b) TIME PERIOD FOR FINAL DETERMINATION.—
 22 Not later than one year after the date of the enactment
 23 of this Act, the Assistant Secretary of the Interior for In-
 24 dian Affairs shall publish a final determination with re-

1 spect to the petition for Federal recognition described in
2 subsection (a).

3 (c) NUMBER OF MEMBERS NOT A FACTOR.—The
4 number of persons listed on the membership roll contained
5 in the petition for Federal recognition described in sub-
6 section (a) shall not be taken into account in considering
7 the petition, except that the Assistant Secretary of the In-
8 terior for Indian Affairs may review the eligibility of indi-
9 vidual members or groups listed in the petition in accord-
10 ance with the provisions of part 83 of title 25, Code of
11 Federal Regulations.

12 (d) EFFECT OF FAILURE TO COMPLY.—If the Assist-
13 ant Secretary of the Interior for Indian Affairs fails to
14 publish the proposed finding required by subsection (a)
15 or the final determination required by subsection (b) by
16 the end of the time period required for the proposed find-
17 ing or final determination by such subsections, the Mash-
18 pee Wampanoag Tribe may—

19 (1) treat such failure as final agency action re-
20 fusing to recognize the Mashpee Wampanoag Tribe
21 as an Indian tribe; and

22 (2) seek in United States district court a deter-
23 mination of whether the petitioner should be recog-
24 nized as an Indian tribe in accordance with the cri-

1 teria specified in section 83.7 of title 25, Code of
2 Federal Regulations.

3 (e) REVIEW OF ADVERSE DECISION.—If the final de-
4 termination required by subsection (b) refuses to recognize
5 the Mashpee Wampanoag Tribe as an Indian tribe, the
6 Mashpee Wampanoag Tribe may seek, during the one-year
7 period beginning on the date on which the final determina-
8 tion is published, a review of the determination in a
9 United States district court notwithstanding the avail-
10 ability of other administrative remedies.

11 **SEC. 3. NO DELAY FOR PETITIONS AWAITING ACTIVE CON-**
12 **SIDERATION.**

13 It is the sense of the Congress that the prompt review
14 of the petition for Federal recognition described in section
15 2(a) will not unnecessarily delay the review of pending
16 fully documented petitions for Federal recognition as an
17 Indian tribe awaiting active consideration as of the date
18 of the enactment of this Act.

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