



# Ohio Legislative Service Commission

## Bill Analysis

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### S.B. 149

128th General Assembly  
(As Introduced)

**Sens.** Strahorn, Cafaro, D. Miller, Turner, Kearney, R. Miller, Morano, Goodman

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## BILL SUMMARY

- Directs the Ohio Civil Rights Commission to provide for state recognition of Native American tribes, Native American groups, and Native American special interest groups.
- Sets forth criteria to be used by the Commission in determining whether to extend state recognition as a Native American tribe.
- Confers state recognition upon the Shawnee Nation United Remnant Band.

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## CONTENT AND OPERATION

### Overview

(R.C. 185.01, 185.02, 185.021, and 185.07)

The bill proposes to enact "The State Recognition of Native American Tribes Act," under which the Ohio Civil Rights Commission ("Commission") is directed to provide for state recognition of Native American tribes, Native American groups, and Native American special interest groups. For purposes of the bill, "**Native American tribe**" means any Native American tribe, band, nation, or other organized group or community that is indigenous to the contiguous land area of Ohio, that has had a continuous presence inside that contiguous land area, and that meets the other criteria for recognition set forth in the bill (see below). "**Native American group**" means any Native American aggregated entity that does not claim to be a Native American tribe. And "**Native American special interest group**" means any Native American aggregated entity that is formed with the intent to petition, campaign, promote, or otherwise advocate for an issue or constituency.

The bill also confers state recognition upon the Shawnee Nation United Remnant Band, and states that this action is based on the findings provided in Am. Sub. H.J.R. 8 of the 113th General Assembly.

### **Criteria for recognition as a Native American tribe**

(R.C. 185.02(B), 185.04(A), and 185.05)

A petitioner seeking state recognition as a Native American tribe is required to submit a petition to the Commission that contains a certification stating that the petition is the petitioner's official petition for recognition and a statement stating that the petitioner has met all of the criteria for recognition set forth in the bill. Both the certification and statement must be signed and dated by members of the petitioner's governing body.

The criteria for recognition are as follows:

(1) The petitioner has been identified as a Native American tribe on a substantially continuing basis in Ohio since 1900. Pursuant to the bill, evidence that an entity's status as a Native American tribe has been denied periodically by those outside the tribe is *not* conclusive evidence that the tribe has not met this criterion, and evidence such as the following tends to show that this criterion has been met:

--Identification as a Native American tribe by federal authorities;

--Relationships with state agencies or political subdivisions of the state based on identification of the group as a Native American tribe;

--Historical and academic recognition of the petitioner as a Native American tribe by anthropologists, historians, and other academic scholars;

--Identification as a Native American tribe in newspapers and books and by other state or federally recognized tribes, Native American nations, interest groups, or populations;

--Identification of traditional tribal real property possessions both before and after 1900;

--Identification of historical figures as being tribal members.

(2) The petitioner has existed as a distinct community from historical times through the present. The bill provides that evidence of the following tends to show that this criterion has been met:



--Significant marriage rates within the community or arranged relationships with other Native American tribes, bands, or groups;

--The descent of a majority of individuals within the community from individuals recognized as members of a Native American group, band, or tribe that is indigenous to Ohio's contiguous land area;

--Significant rates of broad, informal social interaction within the community;

--A significant degree of shared labor or economic activity within the community;

--Patterns of discrimination against the community by nonmembers;

--Shared secular or religious activity within the community, specifically with respect to ceremonies and rituals;

--Language that is used by members of the community but that is not in widespread use by nonmembers;

--Cultural patterns or activities that are shared by members of the community but that are not in widespread use among nonmembers;

--The persistence of a named, collective Native American identity by the community over an extended period of time;

--A demonstrated historical political influence by the community within Ohio;

--High rates of marriage within members of the community.

(3) The petitioner has maintained political influence or authority over its members as an autonomous entity from historical times to the present. The bill states that evidence such as the following tends to show that this criterion has been met:

--Members consider issues acted upon or taken by leaders or governing bodies of the petitioner to be of high importance;

--Members widely acknowledge the political process;

--Members have high rates of involvement within the petitioner's political process;

--The petitioner's governmental body has had a long-term role in the mediation of conflicts, allocation of resources, and guidance of social interactions.

(4) The petitioner has a current governing document that describes membership criteria, and has an official membership list that includes each member's name, including maiden name, date of birth, and current address.

(5) The petitioner's membership consists of individuals who descend from an historical Native American tribe that is indigenous to Ohio's contiguous land area and has functioned as an autonomous political entity. Pursuant to the bill, evidence such as the following tends to show that this criterion has been met:

--Rolls prepared by a secretary, genealogist, or historian that are used to distribute claims money and other financial allotments;

--Federal, state, or local antiquated documents; church, school, and other similar enrollment records; and affidavits of recognition by tribal elders, leaders, or the governing body that identify present members, or their ancestors, as being descendants of an historical tribe that was indigenous to Ohio's contiguous land area;

--Recognition of individuals and families, or their ancestors, in oral history as being descendants of an historical tribe that was indigenous to Ohio's contiguous land area.

(6) The petitioner's membership is comprised primarily of persons who are not members of any other federally or state acknowledged Native American tribe.

### **Commission determination**

(R.C. 185.04(B) and (C))

The Commission must examine each petition submitted to it and determine whether the petitioner meets the above-described criteria for recognition. To make that determination, the Commission is to appoint, and seek advice from, a traditional Native American council consisting of five members and two alternate members. A quorum of the council is three members.

If the petition does not meet, or if there is insufficient evidence that the petition meets, one or more of the criteria for recognition, the petition must be denied. A criterion is met if the petitioner provides explanations and supporting documentation that establish a reasonable likelihood of the validity of the facts relating to that criterion. The Commission is to consider historical situations and time periods for which evidence is demonstrably limited or unavailable, and fluctuations in tribal activity and the limitations of evidence that may result from those fluctuations.

The Commission must approve or disapprove a petition within 15 months after the Commission receives it. The petitioner may appeal the Commission's disapproval to the court of common pleas not later than 60 days after the date of the disapproval.

## **Rights and responsibilities of recognition**

(R.C. 185.03 and 185.06)

A Native American tribe having state recognition may carry out any acts or business in Ohio that Native American tribes are authorized to carry out by the laws of this state or the United States. The bill provides, however, that state recognition as a Native American tribe is *not* recognition of that tribe for purposes of the federal Indian Gaming Regulatory Act.<sup>1</sup>

Native American groups and Native American special interest groups are authorized to form, fund, and operate political action committees, as defined in R.C. 3517.01, and are subject to rules adopted by the Secretary of State to regulate political action committees.

## **Implementation**

(R.C. 185.02(A))

The Commission is required to adopt, and is permitted to amend and rescind, rules that are necessary to implement the bill.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	06-18-09

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<sup>1</sup> 25 U.S.C. 2701 to 2721.