

Calendar No. 380

114TH CONGRESS }
2d Session }

SENATE

{ REPORT
114-219

PROVIDING FOR THE ADDITION OF CERTAIN REAL PROPERTY TO THE RESERVATION OF THE SILETZ TRIBE IN THE STATE OF OREGON

MARCH 2, 2016.—Ordered to be printed

Mr. BARRASSO, from the Committee on Indian Affairs,
submitted the following

R E P O R T

[To accompany S. 817]

The Committee on Indian Affairs, to which was referred the bill (S. 817) to provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of S. 817 is to provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon. The bill would facilitate fee-to-trust applications for the Siletz Tribe within the geographic area specified in the bill by amending the Siletz Tribe Indian Restoration Act¹ (Act).

NEED FOR LEGISLATION

The bill, S. 817, eases the process for the Siletz Tribe to apply for trust land within the original boundaries of the former 1855 Siletz Coast Reservation,² which encompasses parts of Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill counties in the State of Oregon.

¹ 25 U.S.C. § 711e.

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

BACKGROUND

The Confederated Tribes of Siletz Indians of Oregon³ is a federally recognized Indian tribe. An approximately 1.1 million-acre reservation was set aside for the Siletz Tribe in an Executive Order in 1855.⁴ However the federal trust relationship of the tribe and its members was terminated on August 13, 1954.⁵ In 1977, Congress restored federal recognition to the tribe⁶ and on March 2, 1980, a reservation was established for the tribe.⁷

LEGISLATIVE HISTORY

On March 19, 2015, Senators Wyden and Merkley introduced S. 817. The Committee held a legislative hearing on the bill on October 7, 2015. On November 18, 2015, the Committee held a business meeting at which the bill passed by voice vote, and the Committee reported the bill favorably without amendment.

An identical companion bill, H.R. 3211, was introduced by Representative Schrader on July 23, 2015 and was referred to the House Natural Resources Subcommittee on Indian, Insular and Alaska Native Affairs. No further action has been taken to date.

SECTION-BY-SECTION ANALYSIS OF BILL AS ORDERED REPORTED

Sec. 1. Purpose; clarification

Section 1(a) states the purpose of the bill is to facilitate fee-to-trust applications for the Siletz tribe within the specified area described in the amendments made by Section 2.

Section 1(b) clarifies that neither the bill nor any amendment made by the bill to the Act will prioritize the claims of a federally recognized Indian tribe over any other federally recognized Indian tribe.

Sec. 2. Treatment of certain property of the Siletz Tribe of the state of Oregon

Under the bill, the Secretary of the Interior will evaluate requests by the Siletz Tribe to take land into trust within the original boundaries of the 1855 Siletz Coast Reservation, as established by Executive Order dated November 9, 1855, which is located in Benton, Douglas, Lane, Lincoln, Tillamook, and Yamhill counties in the State of Oregon, as on-reservation trust acquisitions under 25 C.F.R. § 151.10. If the land is placed into trust for the tribe, this section would require such land to become part of the tribe's reservation. This section also prohibits gaming as defined under the Indian Gaming Regulatory Act⁸ on land acquired into trust under this bill.

COST AND BUDGETARY CONSIDERATIONS

The following cost estimate, as provided by the Congressional Budget Office, dated December 22, 2015, was prepared for S. 817:

³The tribe did not organize under Indian Reorganization Act (25 U.S.C. 477).

⁴Executive Order. 152 (November 9, 1855).

⁵25 U.S.C. 691 et. seq.

⁶Public Law 95-195.

⁷Public Law 96-340; 94 Stat. 1072.

⁸25 U.S.C. 2701 et seq.

DECEMBER 22, 2015.

Hon. JOHN BARRASSO,
Chairman, Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 817, a bill to provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

KEITH HALL.

Enclosure.

S. 817—A bill to provide for the addition of certain real property to the reservation of the Siletz Tribe in the State of Oregon

S. 817 would modify how the Secretary of the Interior evaluates land to be taken into trust for the Confederated Tribes of Siletz Indians of Oregon. Under current law, the Department of the Interior (DOI) has two separate processes for evaluating potential trust land depending on whether the land is located within or outside of the recognized boundaries of the reservation. If the land is located outside of the recognized boundaries, the process requires greater scrutiny. The bill would require the Secretary to consider certain property that is considered “off-reservation” under current law as “on-reservation.” Under the legislation, all property taken into trust would be considered part of the reservation.

Based on information from DOI, CBO estimates that implementing S. 817 would have no significant effect on the federal budget. We estimate that any change in the department’s administrative costs under the bill, which would be subject to appropriation, would not exceed \$500,000 in any year.

Enacting S. 817 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 817 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

S. 817 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Megan Carroll. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

EXECUTIVE COMMUNICATIONS

The Committee has received no communications from the Executive Branch regarding S. 817.

REGULATORY AND PAPERWORK IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 817 will have a minimal impact on regulatory or paperwork requirements.

CHANGES IN EXISTING LAW (CORDON RULE)

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, changes to existing law made by S. 817, as ordered reported, are shown as follows (new matter is printed in italic):

SILETZ TRIBE INDIAN RESTORATION ACT

* * * * *

(a) ESTABLISHMENT.—Any reservation for the tribe shall be established by an Act of Congress enacted after the enactment of this Act [enacted Nov. 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 the date of enactment of this Act [enacted Nov. 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 6 [25 USCS § 711d], 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, United States Code, and section 1162 of title 18, United States Code.

(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.).

