



House of Representatives

General Assembly

File No. 466

February Session, 2008

Substitute House Bill No. 5141

House of Representatives, April 4, 2008

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING A COMMISSION ON AMERICAN INDIAN AFFAIRS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47-59b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 [(a) There shall continue to be an Indian Affairs Council, consisting
4 of one representative from each of the following Indian tribes: The
5 Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket
6 Pequot, the Mohegan and the Golden Hill Paugussett; to be appointed
7 by the respective tribes, and three persons appointed by the Governor
8 who are electors within the state but not elected or appointive officials
9 of the state or any of its political subdivisions and are not of Indian
10 lineage. Appointments made under this section shall be for terms of
11 three years. Each Indian tribe may designate from among its members
12 an alternate representative who may serve from time to time in place
13 of its appointive representative. Vacancies on said council shall be
14 filled by the respective appointing authority for the unexpired balance

15 of the term. The members of said council shall be compensated for
16 their services thereon at the rate of twenty-five dollars per day and
17 shall be reimbursed for their necessary expenses. Said council shall
18 provide services to the Indian reservation community of the state and
19 formulate programs suitable to its needs. The council may select an
20 executive director who shall serve at no expense to the state but may
21 be compensated with funds contributed by the tribes.

22 (b) The Indian Affairs Council shall review the regulations
23 governing Indian affairs in the state of Connecticut and advise the
24 Commissioner of Environmental Protection on promulgation of new
25 regulations. The council shall report annually, no later than September
26 first, to the Governor and the General Assembly on the activities of the
27 council and the state of affairs of the Indian people in the state.]

28 (a) There is established a Commission on American Indian Affairs to
29 promote unity and understanding among the American Indian people
30 and communities of the state and to serve as a liaison between the
31 American Indian people of the state and tribal governments, municipal
32 and private sector entities, non-American Indians, federal agencies and
33 the legislative and executive branches of state government. The
34 commission shall consist of fifteen voting members who are
35 knowledgeable in areas of interest and concern to American Indians
36 and are appointed as follows: Two members by the Governor, two
37 members by the speaker of the House of Representatives, two
38 members by the president pro tempore of the Senate, one member by
39 the majority leader of the House of Representatives, one member by
40 the minority leader of the House of Representatives, one member by
41 the majority leader of the Senate, one member by the minority leader
42 of the Senate and one member from each of the following Indian tribes:
43 The Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket
44 Pequot, the Mohegan and the Golden Hill Paugussett. The commission
45 shall appoint a total of seven nonvoting members by majority vote
46 from among the following: The Departments of Environmental
47 Protection, Social Services, Public Health, Transportation, Mental
48 Health and Addiction Services, Insurance, Labor, Veterans' Affairs,

49 and Education, the Archaeological Society of Connecticut, the
50 Association for the Study of Connecticut History, the Connecticut
51 Library Association, the Mashantucket Pequot Museum and Research
52 Center, the Institute of American Indian Studies or from among
53 individuals knowledgeable in areas of interest and concern to
54 American Indians.

55 (b) Except as specified in subsection (c) of this section, each voting
56 and nonvoting member of the commission shall be appointed for a
57 term of three years from the date of his or her appointment. Such
58 members shall not serve more than two consecutive terms. Members of
59 the commission shall receive no compensation for their services, except
60 that members shall, within available appropriations, be reimbursed for
61 any necessary expenses incurred in the performance of their duties.
62 Any vacancy in the voting membership of the commission shall be
63 filled by the original appointing authority for the balance of the
64 unexpired term. Any member absent from three consecutive meetings
65 of the commission shall be deemed to have resigned from the
66 commission, effective immediately.

67 (c) For the initial appointments of voting members, five of such
68 members shall be appointed for a three-year term, five for a four-year
69 term and five for a five-year term. For the initial appointments of
70 nonvoting members, two of such members shall be appointed for a
71 one-year term, two for a two-year term and three for a three-year term.
72 After the initial terms of both voting and nonvoting members have
73 expired, such members shall be appointed pursuant to subsection (b)
74 of this section.

75 (d) The Commissioner of Environmental Protection shall convene
76 the initial organizational meeting of the commission on or before
77 October 1, 2008. The voting members of the commission shall select a
78 chairperson and vice-chairperson from among the voting members of
79 the commission. The commission shall meet as often as deemed
80 necessary by the chairperson or a majority of the commission.

81 (e) The commission may, subject to the provisions of chapter 67,

82 employ any necessary staff and an executive director within available
83 appropriations.

84 (f) The commission may use such funds as may be available from
85 federal, state or other sources and may enter into contracts to carry out
86 the purposes of this section.

87 (g) The commission may adopt regulations, in accordance with
88 chapter 54, to carry out the provisions of this section.

89 (h) The commission shall be within the Legislative Department, for
90 administrative purposes only.

91 (i) The commission shall: (1) Prepare and issue, in accordance with
92 section 11-4a, an annual report to the Governor, General Assembly,
93 legislative body of each municipality, and recognized tribal nations in
94 the state on its findings and recommendations concerning American
95 Indian affairs in the state; (2) conduct annual public hearings on issues
96 affecting the well-being of the American Indian population in the state;
97 (3) review and comment on any proposed state legislation and
98 regulations and American Indian law, that would affect the American
99 Indian population in the state; (4) develop public relations programs
100 and projects related to the cultural, educational and social
101 development of the state's American Indian communities and
102 disseminate related materials and develop public projects to further
103 understanding of American Indian communities; (5) serve as a state-
104 wide reference and resource center to increase public knowledge of
105 American Indian history and heritage and document American Indian
106 influence on history and culture in the state; (6) act as a liaison between
107 the American Indian communities, the state and federal governments
108 and educational and social service agencies; (7) encourage American
109 Indian representation at all levels of state government, including state
110 boards and commissions; (8) secure appropriate recognition of the
111 accomplishments and contributions of the American Indian population
112 of the state; (9) advocate on behalf of American Indian persons who
113 have been subject to prejudice and discrimination or have experienced
114 other human rights violations; (10) investigate reports of potential

115 damage to sacred or significant items or places to the American Indian
116 community; (11) make recommendations to protect and facilitate
117 access to spiritual, social and burial places for American Indians in the
118 state; and (12) work with and notify the Chief State's Medical
119 Examiner, the Office of State Archeology and the American Heritage
120 Advisory Council when American Indian remains are discovered.

121 Sec. 2. Section 10-382 of the general statutes is repealed and the
122 following is substituted in lieu thereof (*Effective from passage*):

123 There is established a Native American Heritage Advisory Council
124 to evaluate and make recommendations on the Native American
125 heritage to the State Archaeologist and the Connecticut Commission
126 on Arts, Tourism, Culture, History and Film. Such council shall consist
127 of the following members: One representing each of the following
128 Indian tribes, appointed by the tribe: The Schaghticoke, the Paucatuck
129 Eastern Pequot, the Mashantucket Pequot, the Mohegan and the
130 Golden Hill Paugussett; one representing the Commission on
131 American Indian Affairs, [Council,] appointed by the chairperson of
132 the council; one representing the Commissioner of Environmental
133 Protection, appointed by said commissioner; one representing the
134 Archaeological Society of Connecticut, appointed by the president pro
135 tempore of the Senate; and three who are knowledgeable in Native
136 American history, traditions and archaeology, one appointed by the
137 speaker of the House of Representatives, one appointed by the
138 minority leader of the House of Representatives and one appointed by
139 the minority leader of the Senate.

140 Sec. 3. Section 10a-112 of the general statutes is repealed and the
141 following is substituted in lieu thereof (*Effective from passage*):

142 (a) Until such time as a State Archaeologist is appointed pursuant to
143 subsection (b) of this section, the trustees of The University of
144 Connecticut shall designate a member of the faculty of said university
145 to serve as State Archaeologist, who shall serve without additional
146 compensation. He shall conduct research in the ethnohistory of the
147 Indians of this region and of their archaeology, and shall cooperate

148 with agencies of this state and of the federal government and with
149 private individuals and corporations in an effort to protect and
150 preserve archaeological remains which are threatened with destruction
151 or loss by the construction of dams or highways or otherwise.

152 (b) The Board of Directors of the State Museum of Natural History
153 shall appoint a State Archaeologist and staff for the Office of
154 Archaeology established pursuant to section 10a-112a. The State
155 Archaeologist shall have the following powers and duties: (1) To
156 supervise the care and study of the archaeological collection of the
157 State Museum of Natural History; (2) to coordinate (A) the
158 archaeological salvage of properties threatened with destruction, (B)
159 public and private archaeological research and the encouragement of
160 the highest possible standards in archaeological investigations, and (C)
161 the preservation of native American and other human osteological
162 remains and cemeteries with the Connecticut Commission on Culture
163 and Tourism, the Office of the Chief Medical Examiner, the
164 Commission on American Indian Affairs [Council] and other state
165 agencies; (3) to conduct research on the state's prehistory and history
166 and disseminate the results of such research through publications and
167 other means; (4) to educate the public about the significance and
168 fragility of archaeological resources; (5) to respond to inquiries about
169 the state's archaeological resources; and (6) to maintain comprehensive
170 site files and maps.

171 Sec. 4. Section 19a-4j of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective from passage*):

173 (a) There is established, within the Department of Public Health, an
174 Office of Multicultural Health. The responsibility of the office is to
175 improve the health of all Connecticut residents by eliminating
176 differences in disease, disability and death rates among ethnic, racial
177 and cultural populations.

178 (b) The department may apply for, accept and expend such funds as
179 may be available from federal, state or other sources and may enter
180 into contracts to carry out the responsibilities of the office.

181 (c) The office shall:

182 (1) With regard to health status: (A) Monitor the health status of
183 African Americans; Latinos/Hispanics; Native Americans/Alaskan
184 Natives; and Asians, Native Hawaiians and other Pacific Islanders; (B)
185 compare the results of the health status monitoring with the health
186 status of non-Hispanic Caucasians/whites; and (C) assess the
187 effectiveness of state programs in eliminating differences in health
188 status;

189 (2) Assess the health education and health resource needs of ethnic,
190 racial and cultural populations listed in subdivision (1) of this
191 subsection; and

192 (3) Maintain a directory of, and assist in development and
193 promotion of, multicultural and multiethnic health resources in
194 Connecticut.

195 (d) The office may:

196 (1) Provide grants for culturally appropriate health education
197 demonstration projects and may apply for, accept and expend public
198 and private funding for such projects; and

199 (2) Recommend policies, procedures, activities and resource
200 allocations to improve health among racial, ethnic and cultural
201 populations in Connecticut.

202 (e) The Commissioner of Public Health shall submit an annual
203 report concerning the activities of the office to the Governor, the
204 General Assembly, the Permanent Commission on the Status of
205 Women established under section 46a-1, the Latino and Puerto Rican
206 Affairs Commission established under section 2-120, the Commission
207 on American Indian Affairs [Council] established under section 47-59b₂,
208 as amended by this act, and the Connecticut African-American Affairs
209 Commission. The office shall also hold community workshops and use
210 other means to disseminate its findings state-wide.

211 Sec. 5. Section 47-65 of the general statutes is repealed and the
212 following is substituted in lieu thereof (*Effective from passage*):

213 (a) The Commissioner of Environmental Protection with the advice
214 of the Commission on American Indian Affairs [Council] shall have
215 the care and management of reservation lands. The commissioner and
216 the [council] commission shall establish the boundaries of such
217 reservations by land survey and shall file a map of the same in the land
218 records of the appropriate towns.

219 (b) All reservation buildings not privately owned shall be subject to
220 the care and management of the Commissioner of Environmental
221 Protection. The commissioner with the advice of the Commission on
222 American Indian Affairs [Council] shall, upon the petition of the
223 resident make major repairs and improvements to the exterior of any
224 such building and its heating, water, electric, sewage disposal and
225 plumbing systems as are necessary to insure habitable living
226 conditions. The resident of any building shall assume responsibility for
227 the interior maintenance of floors, walls and ceilings and minor
228 maintenance of the building and its heating, water, electric, sewage
229 disposal and plumbing systems, provided the commissioner shall
230 supply necessary materials for such systems.

231 (c) The [council] commission may, upon petition of an Indian
232 resident without sufficient means to support himself, provide
233 assistance in an amount necessary to maintain a standard of living in
234 the home compatible with the well-being of the resident. The [council]
235 commission shall provide other services as it deems necessary to
236 insure the well-being of all persons residing on the reservations.

237 (d) The commissioner and the [council] commission may adopt and
238 amend regulations pursuant to chapter 54 to carry out the provisions
239 of subsections (a) and (b) of this section. The [council] commission
240 shall adopt regulations which prescribe eligibility standards for
241 assistance and services under subsection (c) of this section.

242 (e) The Governor is hereby designated the administrative agent of

243 the state to apply for any funds or other aid, cooperate and enter into
244 contracts and agreements with the federal government, the Indian
245 Housing Authority or any other appropriate state or local agency for
246 the purpose of providing necessary services to housing projects to be
247 located on Indian reservations within the state of Connecticut or for
248 any other purpose which the Congress of the United States or the
249 General Assembly has authorized or may authorize for expenditures
250 compatible with the services provided for in this chapter. The
251 Governor is authorized in the name of the state to make all
252 applications, sign all documents, give assurances and do all other
253 things necessary to carry out the provisions of this chapter.

254 Sec. 6. Section 47-66 of the general statutes is repealed and the
255 following is substituted in lieu thereof (*Effective from passage*):

256 Tribal funds shall be under the care and control of the
257 Commissioner of Environmental Protection with the advice of the
258 Commission on American Indian Affairs [Council] and may be used
259 for the purposes set forth in section 47-65, as amended by this act. Said
260 commissioner shall annually settle his or her accounts of the affairs of
261 each tribe with the Comptroller, and his or her report to the Governor
262 shall furnish, with respect to each tribe, a statement of the amount and
263 condition of its fund, an estimate of the value of its lands and the
264 income annually received and the expenditures made by said
265 commissioner from such fund. Said commissioner may maintain an
266 action in his or her name to recover any property misappropriated
267 from a reservation.

268 Sec. 7. Section 47-66g of the general statutes is repealed and the
269 following is substituted in lieu thereof (*Effective from passage*):

270 The Commissioner of Environmental Protection with the advice of
271 the Commission on American Indian Affairs [Council] shall manage
272 the state's interest in Indian affairs not otherwise specified in this
273 chapter, including but not limited to, maintaining state documents,
274 providing information to tribal members and coordinating
275 governmental grant programs.

276 Sec. 8. Section 47-66i of the general statutes is repealed and the
277 following is substituted in lieu thereof (*Effective from passage*):

278 (a) Each tribal leader shall file with the Governor his or her name
279 and a written description of the method of selecting tribal leaders and
280 the process by which tribal leaders exercise their authority. The
281 Governor shall file such description with the Secretary of the State and
282 the Commission on American Indian Affairs [Council] established
283 under section 47-59b, as amended by this act.

284 (b) A leadership dispute shall be resolved in accordance with tribal
285 usage and practice. Upon request of a party to a dispute, the dispute
286 may be settled by a council. Each party to the dispute shall appoint a
287 member to the council and the parties shall jointly appoint one or two
288 additional members provided the number of members of the council
289 shall be an odd number. If the parties cannot agree on any joint
290 appointment, the Governor shall appoint any such member who shall
291 be a person knowledgeable in Indian affairs. The decision of the
292 council shall be final on substantive issues. An appeal may be taken to
293 the Superior Court to determine if provisions of the written description
294 filed with the Secretary of the State pursuant to this section have been
295 followed. If the court finds that the dispute was not resolved in
296 accordance with the provisions of the written description, it shall
297 remand the matter with instructions to reinstitute proceedings, in
298 accordance with such provisions.

299 Sec. 9. Section 47-66j of the general statutes is repealed and the
300 following is substituted in lieu thereof (*Effective from passage*):

301 (a) On or before March 15, 1990, and annually thereafter, the tribal
302 leader selected in accordance with the method filed under section 47-
303 66i, as amended by this act, shall file a copy of the rules for tribal
304 membership and government and a current membership roll with the
305 Governor. The membership rules may include provisions for
306 revocation of membership. The Governor shall file the rules and
307 membership roll with the Secretary of the State and the Commission
308 on American Indian Affairs [Council] established under section 47-59b₂

309 as amended by this act.

310 (b) A membership dispute shall be resolved in accordance with
 311 tribal usage and practice. Upon request of a party to a dispute, the
 312 dispute may be settled by a council. Each party to the dispute shall
 313 appoint a member of the council and the parties shall jointly appoint
 314 one or two additional members provided the number of members of
 315 the council shall be an odd number. If the parties cannot agree on any
 316 joint appointment, the Governor shall appoint such member who shall
 317 be a person knowledgeable in Indian affairs. The decision of the
 318 council shall be final on substantive issues but an appeal may be taken
 319 to the Superior Court to determine if membership rules filed in the
 320 office of the Secretary of the State pursuant to this section have been
 321 followed. If the court finds that the dispute was not resolved in
 322 accordance with the provisions of the written description, it shall
 323 remand the matter with instructions to reinstitute proceedings, in
 324 accordance with such provisions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	47-59b
Sec. 2	<i>from passage</i>	10-382
Sec. 3	<i>from passage</i>	10a-112
Sec. 4	<i>from passage</i>	19a-4j
Sec. 5	<i>from passage</i>	47-65
Sec. 6	<i>from passage</i>	47-66
Sec. 7	<i>from passage</i>	47-66g
Sec. 8	<i>from passage</i>	47-66i
Sec. 9	<i>from passage</i>	47-66j

ENV Joint Favorable Subst.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Commission on American Indian Affairs	GF - Cost	155,000	205,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	28,500	90,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill establishes a Commission on American Indian Affairs, within the Legislative Department for administrative purposes only.

To carryout the commission's duties and responsibilities will require two full-time positions; an executive director (approximately \$100,000 annualized) and an administrative assistant (approximately \$50,000 annualized). Additionally, the commission will need \$50,000 in Other Expenses and \$5,000 in Equipment. The total costs are estimated to be \$155,000 in FY 09 (based on the commission being operational for 9 months) and \$205,000 in FY 10.

The bill replaces the current Indian Affairs Council with this commission. This is not anticipated to result in a fiscal impact to the Department of Environmental Protection (DEP). DEP expends approximately \$10,000 a year for property management issues at the

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

state's Indian Reservation communities. These responsibilities are not changed under the bill. In addition, there is one DEP employee who provides assistance to the Indian Affairs Council; however this employee's main responsibility is environmental education and these duties do not change under the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5141*****AN ACT CONCERNING A COMMISSION ON AMERICAN INDIAN AFFAIRS.*****SUMMARY:**

This bill replaces the Indian Affairs Council with the Commission on American Indian Affairs and transfers the council's duties to the commission. It puts the commission within the Legislative Department for administrative purposes only.

The 22-member commission must promote unity and understanding among the American Indian people and communities of the state, and serve as a liaison between the American Indian people and tribal governments, municipal and private sector entities, non-American Indian citizens, federal agencies, and the legislative and executive branches of state government.

EFFECTIVE DATE: Upon passage

STRUCTURE AND DUTIES OF THE COMMISSION ON NATIVE AMERICAN INDIAN AFFAIRS***Structure***

The commission consists of 15 voting members knowledgeable in areas of interest and concern to American Indians. Ten of the members are appointed: the governor, Senate president pro tempore, and House speaker each nominate two, and the majority and minority leaders of the House and Senate each nominate one. The five other members represent each of the recognized American Indian nations in the state: the Schaghticoke, the Paucatuck Eastern Pequot, the Mashantucket Pequot, the Mohegan, and the Golden Hill Paugussett.

The commission elects its own chairperson and vice-chairperson. It

must appoint an additional seven non-voting members by majority vote from among the following: the departments of Education, Environmental Protection, Insurance, Labor, Mental Health and Addiction Services, Public Health, Social Services, Transportation, and Veterans' Affairs; the Archaeological Society of Connecticut; the Association for the Study of Connecticut History; the Connecticut Library Association; the Mashantucket Pequot Museum and Research Center; the Institute of American Indian Studies; or from among individuals knowledgeable in areas of interest and concern to American Indians.

Under the bill, five of the initial appointments of voting members are for three-year terms, five for four-year terms, and five for five-year terms. Two of the initial appointments for non-voting members are for one-year terms, two for two-year terms, and three for three-year terms. The bill does not specify how to distribute the initial terms.

After these initial terms expire, all terms are for three years. members cannot serve for not more than two consecutive terms. They are not compensated for their service but are reimbursed within available appropriations, for expenses incurred while performing their duties. Absence from three consecutive meetings results in automatic resignation. The original appointing authority must fill vacancies among members. The environmental protection commissioner must call the initial organizational meeting by October 1, 2008.

The commission may adopt regulations, enter into contracts, and seek funds from federal, state, or other sources to carry out the bill. Within available appropriations, the commission may employ necessary staff and an executive director.

Duties

The bill requires the commission to:

1. prepare and issue its findings and recommendations concerning American Indian affairs in Connecticut in an annual report;

2. conduct annual public hearings on issues that affect the well-being of American Indians;
3. review and comment on any proposed state legislation that would affect the American Indian population in Connecticut;
4. develop public relations programs and projects related to the cultural, educational, and social development of the state's American Indian communities, and disseminate appropriate material;
5. document American Indian influence on history and culture in the state and serve as a statewide reference and resource center to increase public knowledge about American Indian history and heritage;
6. act as a liaison between the American Indian communities, the state and federal governments, and educational and social service agencies;
7. encourage American Indian representation at all levels of state government;
8. secure appropriate recognition of the accomplishments and contributions of the American Indian population of Connecticut;
9. advocate on behalf of American Indians who have been subject to prejudice and discrimination or have experienced other human rights violations;
10. investigate reports of potential damage to sacred or significant items or places to the American Indian community;
11. make recommendations to protect and facilitate access to spiritual, social, and burial places for American Indians in the state; and
12. work with, and notify, the Chief State's Medical Examiner, the Office of State Archeology, and the American Heritage Advisory

Council when American Indian remains are discovered.

INDIAN AFFAIRS COUNCIL RESPONSIBILITIES ASSUMED BY THE NEW COMMISSION ON INDIAN AFFAIRS

In addition to the duties specified in the bill, the commission takes over the responsibilities of the Indian Affairs Council, as outlined in current law. These responsibilities include:

1. working with the state archeologist to preserve Native American remains and cemeteries;
2. representing the commission on the Native American Heritage Advisory Council;
3. consulting with the Environmental Protection commissioner to care for, and manage, reservation lands and buildings;
4. providing services to insure the well-being of Native Americans; and
5. consulting with the commissioner to control tribal funds and manage the state's interest in Indian affairs.

The commission also receives information from the governor, tribes, and the Department of Public Health on tribal membership, state rules governing tribes, tribal leadership procedures, and the status of Native American health.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 1 (03/14/2008)