



WISCONSIN LEGISLATIVE COUNCIL

STATE-TRIBAL RELATIONS

College of the Menominee Nation
Keshena, WI

July 18, 2012
10:00 a.m. – 3:00 p.m.

[The following is a summary of the July 18, 2012 meeting of the Special Committee on State-Tribal Relations. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

Call to Order and Roll Call

Chair Mursau called the committee to order. The roll was called and a quorum was present.

COMMITTEE MEMBERS PRESENT: Rep. Jeffrey Mursau, Chair; Sen. Kathleen Vinehout, Vice-Chair; Reps. Janet Bewley, Nick Milroy, Roger Rivard, Jim Steineke, and Duey Stroebel; Sens. Jim Holperin and Dale Schultz; and Public Members Laura Arbuckle, Dee Ann Allen, Gary Besaw, Gregg W. Duffek, and Jon Greendeer.

COMMITTEE MEMBER EXCUSED: Public Members Melinda Danforth, Marvin Defoe, and William Morrow.

TECHNICAL ADVISORY COMMITTEE MEMBERS PRESENT: David O'Connor, Department of Public Instruction; Kelly Jackson, Department of Transportation; Quinn Williams, Department of Natural Resources; and John Tuohy, Department of Children and Families.

TECHNICAL ADVISORY COMMITTEE MEMBER EXCUSED: Tom Bellavia, Department of Justice; Margaret McGrath, Department of Workforce Development; and Thomas Ourada, Department of Revenue.

COUNCIL STAFF PRESENT: David L. Lovell, Senior Analyst, and David Moore, Staff Attorney.

APPEARANCES: Craig Corn, Chairman, Menominee Indian Tribe of Wisconsin (MITW); Dr. Diana Morris, Chief Academic Officer, College of the Menominee Nation; Byron Getch, Northeast Regional Warden, and Quinn Williams, Natural Resources Section Chief, Bureau of Legal Services, Department of Natural Resources (DNR); Walter Cox, Director, Conservation Department, MITW; Ken Ninham, Mental Health Coordinator, Family Resource Center, Lac du Flambeau Band of Lake Superior Chippewa Indians; and Tamara Feest, IDP Coordinator for Forest, Oneida, and Vilas Counties, The Human Service Center, Rhineland.

Greeting by Craig Corn, Chairman, Menominee Indian Tribe of Wisconsin (MITW)

Chairman Corn welcomed the committee to the Menominee Reservation and wished the committee a productive meeting. He discussed various aspects of the Menominee Nation's history, including the Menominee tradition of hospitality.

Greeting by Dr. Diana Morris, Chief Academic Officer, College of the Menominee Nation

Dr. Morris welcomed the committee to the College of the Menominee Nation. She described some of the history of the college as well as the programs and services it offers.

Staff Remarks

David Lovell, committee staff, described the history and functioning of Legislative Council study committees and of the Special Committee on State-Tribal Relations, in particular. He explained that the only rule relating to these committees is that members must be present to vote; there is no voting by proxy. He said that all other matters relating to the operation of this committee are at the discretion of the chair.

Chairperson's Remarks

Chair Mursau welcomed the members of the committee. He commented that the committee is only as good as the participation of the committee members. He said that he looked forward to a productive committee, beginning with the topics prepared for this meeting.

Introduction of Committee Members

Chair Mursau asked the committee members and all others in attendance to introduce themselves. Kris Goodwill stated that she was attending on behalf of Public Member Bill Morrow, and Lisa Summers attended on behalf of Public Member Melinda Danforth.

Off-Reservation Transport of Game: Briefing

Byron Getch, Northeast Regional Warden, and Quinn Williams, Natural Resources Section Chief, Bureau of Legal Services, Department of Natural Resources (DNR)

Mr. Williams briefed the committee on the regulations that apply to the transport from a reservation of game that has been taken legally under tribal law at a time when it is not legal to take or possess that species of game in the state, in general. He noted certain potential deficiencies in the current statute and rules. He also discussed the fact that requirements for transporting game from an Indian reservation are more restrictive than those for transporting game from another state.

Mr. Getch discussed what the DNR considers necessary for the tagging of wildlife taken by hunters, for purposes of enforcing conservation laws. He acknowledged the desire of some tribes to have the law revised to treat tribes in the same manner that other states are treated. He talked also about the development of memoranda of agreement between the state and tribes setting minimum requirements for tagging game transported from a reservation to other places in the state.

Walter Cox, Director, Conservation Department, MITW

Mr. Cox stated that the Menominee Nation would like the law regarding the transport of game to be amended to treat Indian tribes in the same manner that other states are currently treated. He said that this would respect the tribes' sovereignty.

In committee discussion, it appeared that the DNR's concerns regarding verification of the legality of harvesting game could be addressed if it were assured that tribal tagging systems met certain requirements. Chair Mursau directed staff to work with the DNR staff, Mr. Cox, and other interested parties to develop a proposal for the committee's consideration.

Conversion of Managed Forest Land to Trust: Briefing

Quinn Williams, DNR

Mr. Williams briefed the committee regarding the forest tax law (FTL) and managed forest land (MFL) programs. He explained that both are programs that give property tax relief to the owners of forest land who enter into long-term contracts to manage and ultimately harvest the timber on the land, paying a severance tax at the time of harvest to the local governments; in essence, the programs defer taxes until the time the timber is harvested. He said that individuals are allowed to withdraw land from the program, but that they must pay a fee for doing so, which is based on a portion of the deferred property taxes.

Mr. Williams noted Indian tribes have expressed interest in revising the program to allow a tribe to withdraw from the programs that it has purchased and plans to have taken in trust for it by the U.S. Government. He said that legislation enacted in 2009 specified that a tribe may withdraw land from the MFL program if the tribe: provides the DNR the date of the order to transfer the land to the United States; and enters into an agreement with the DNR to continue treatment of the land as though it were enrolled in the program for the duration of the original enrollment period. He said that the DNR had requested that then-Governor Doyle partially veto the new language to eliminate the required agreement to continue treatment of the land as though it were still enrolled in the program.

After committee discussion, Chair Mursau directed staff to work with DNR staff and other interested parties to develop a proposal based on the DNR's veto request, for consideration by the committee.

Discussion of Topics for Committee Study

Chair Mursau noted that, in response to his request, a number of members of the committee and the committee's technical advisory committee had submitted recommended topics for the committee's study. He asked the members to each identify their top one or two priorities from among these and other topics for committee study. The members identified the following topics:

- Funding for the out-of-home placement of Indian children ordered by tribal courts (the so-called "161 agreements") as described in correspondence from the Department of Children and Families.

- Tax policy to encourage economic development on Indian reservations, as described in correspondence from the Oneida Tribe.
- Establishment of a process for consultation between the tribes and the legislative branch of state government.
- Crimes committed against tribal casinos.
- State recognition of tribally issued license plates.
- Redirecting the state's use of the revenues it receives from the tribes under gaming compacts to benefit the tribes and surrounding communities.
- Tribal participation in the intoxicated driver program (IDP).
- The off-reservation transport of game.

Chair Mursau said that he would use this input to help him develop agendas for future meetings.

Tribal Participation in the Intoxicated Driver Program (IDP): Invited Speakers and Committee Discussion

Ken Ninham, Mental Health Coordinator, Family Resource Center, Lac du Flambeau Band of Lake Superior Chippewa Indians

Mr. Ninham presented a number of issues, identified by the Tribal-State Collaborative for Positive Change, relating to administration of the IDP and involvement of tribal personnel. Specifically, the issues relate to:

- Conduct of assessments of tribal OWI offenders by tribal personnel.
- Adequacy and cultural appropriateness of the assessment tool used for this purpose.
- Inclusion of tribal traditional practices in the treatment of dependency.
- Communication between tribal and county staff.
- Allocation of revenues from the driver improvement surcharge.

Tamara Feest, IDP Coordinator for Forest, Oneida, and Vilas Counties, The Human Service Center, Rhinelander

Ms. Feest noted that most of the issues being discussed affect the IDP, in general, more than just the role of tribal governments. She reiterated many of the points made by Mr. Ninham and raised additional points, including issues relating to:

- The training requirements of individuals who conduct assessments of OWI offenders.

- Financial hardship to OWI offenders, resulting from fees and assessments under the program, as barriers to successful treatment.
- The need of offenders in rural settings to travel long distances to receive services.
- The inadequacy of funds available for treatment of OWI offenders.

Memo No. 1, Tribal Participation in the Intoxicated Driver Program: Issues and Options for Legislation (July 10, 2012)

Mr. Lovell led a discussion of options for addressing the issues raised by Mr. Ninham and Ms. Feest, based on Memo No. 1. In the course of the discussion, the committee gave staff instructions to prepare a bill draft that would do the following:

- Specify that a county shall, at the request of a tribe located in that county, designate a facility of the tribe to conduct assessments under the IDP, if the facility meets the requirements of such facilities specified in rules of the Department of Health Services (DHS).
- Provide an exception for a tribal facility from the provision of current law that specifies that a facility that conducts assessments may not also provide treatment services under the IDP.
- Expressly state in the statutes that traditional practices may be included in treatment plans, but that they may not be the exclusive modes employed in a treatment plan.
- Direct the Department of Transportation, at the request of a tribal community college, to certify the college as a traffic safety school program, if the college meets all of the requirements of such a program. Specify that this requirement applies to traffic safety schools related to any traffic violation.
- Specify that a county must remit to the tribe the county's share of any driver improvement surcharge paid by an OWI offender who receives treatment at a tribal facility.
- Specify that a tribe is eligible for a supplemental grant from DHS in proportion to the number of OWI offenders who receive treatment at a facility of the tribe.

Other Business

There was no other business brought before the committee.

Plans for Future Meetings

The next meeting of the Special Committee on State-Tribal Relations will be on ***Tuesday, September 25, 2012, at 10:00 a.m., at the Legendary Waters Resort and Casino, in Red Cliff.***

Adjournment

The meeting was adjourned at 3:00 p.m.

DLL:DM:jal