



Legislation Text

File #: 23-0401, **Version:** 1

Chief Administrative Office recommending the Board approve and authorize the Chair to sign a comment letter to the U.S. Bureau of Indian Affairs regarding proposed streamlining provisions on the federal lands into trust process for tribal governments and individual tribal members.

FUNDING: N/A

DISCUSSION / BACKGROUND

On December 19, 2022, the National Association of Counties (NACo) issued an advisory to counties informing them that on December 5, the U.S. Bureau of Indian Affairs (BIA) published its new proposed rule on the federal lands into trust process (25 CFR 151) for tribal governments and individual tribal members.

The lands into trust process are a set of procedures in which BIA and the U.S. Department of the Interior acquire the title to land and hold it for the use and benefit of tribes or tribal members. This process was established by the Indian Reorganization Act of 1934, which gave the Secretary of Interior general authority to take lands into trust, and later interpreted by the U.S. Supreme Court in the case of *Carcieri v. Salazar* <<https://www.naco.org/blog/%E2%80%8Binterior-issues-opinion-carcieri>>, 555 U.S., 129 S. Ct. 1058 (2009). The U.S. Congress has not enacted legislation prescribing the process in which the Secretary places land into trust, and therefore, this process has been guided by federal regulations and court rulings.

In general, the proposed rule provides several major changes to the existing process; however, the two most significant are the following. First, the rule directly states that the Secretary of the Interior's policy is favorable towards taking land into trust to support the welfare of tribes. Previous iterations of the rule had not expressed the Department of the Interior's stance on this process. Second, the rule speeds up the process by requiring the BIA to issue a decision on a land into trust request within 120 days of the submission of a complete application package. Counties are concerned that this quick timeline does not provide adequate time to truly understand the tax roll and jurisdictional impact on affected counties.

The BIA is currently seeking input on these changes from interested stakeholders and written comments are required to be submitted by March 1, 2023. Staff are recommending the Board approve and sign the attached comment letter.

ALTERNATIVES

The Board could choose not to send the comment letter.

PRIOR BOARD ACTION

N/A

OTHER DEPARTMENT / AGENCY INVOLVEMENT

N/A

FINANCIAL IMPACT

N/A

CLERK OF THE BOARD FOLLOW UP ACTIONS

Return the signed letter to the Chief Administrative Office for distribution.

STRATEGIC PLAN COMPONENT

Good Governance

CONTACT

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