



## HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

### HO-CHUNK NATION LEGISLATURE DENIAL OF APPLICATION OF JAMES WEBSTER TO THE POSITION OF EXECUTIVE DIRECTOR OF THE DEPARTMENT OF BUSINESS

#### RESOLUTION 04-08-13T

- WHEREAS,** on November 1, 1994, the United States Secretary of the Interior approved a new Constitution for the Ho-Chunk Nation, formerly known as the Wisconsin Winnebago Tribe; and
- WHEREAS,** the Ho-Chunk Nation ("Nation") is a federally recognized Indian Tribe, pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") gives the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; and
- WHEREAS,** Article V, Section 2(b) of the Constitution grants the Legislature the power to establish Executive Departments, and to delegate legislative powers to the Executive branch to be administered by such Departments, in accordance with the law; any Department established by the Legislature shall be administered by the Executive; the Legislature reserves the power to review any action taken by virtue of such delegated power; and
- WHEREAS,** Article V, Section 2(c) of the Constitution grants the Legislature the power to constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature; and
- WHEREAS,** Article V, Section 2(f) of the Constitution grants the Legislature the power to set the salaries, terms and conditions of employment for all governmental personnel; and
- WHEREAS,** Article V, Section 2(i) of the Constitution grants the Legislature the power to negotiate and enter into treaties, compacts, contracts, and agreements with other governments, organizations, or individuals; and
- WHEREAS,** Article V, Section 2(x) of the Constitution grants the Legislature the power to enact any other laws, ordinances, resolutions, and statutes necessary to exercise its legislative powers delegated by the General Council pursuant to Article III including but not limited to the foregoing list of powers; and
- WHEREAS,** Article VI, section 2(e) provides "[t]he President shall have the power . . . (e) To nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed."; and

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**WHEREAS,** the Legislature adopted the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9) (hereinafter “Confirmation Act”); and

**WHEREAS,** Section 2 of the Confirmation Act provides “[t]he purpose of this Act is to assist in an orderly transition between Executive administrations through a confirmation process. This Act shall be applicable to all Executive Directors, Interim Directors, and candidates for a Director Position.”; and

**WHEREAS,** Section 5 of the Confirmation Act provides:

**5. Nomination Process.** The President, pursuant to Article VI, Section 2(e) of the Constitution of the Ho-Chunk Nation, must name all Executive Directors, subject to the confirmation of the Legislature:

a. Confirmation by the Legislature of an Executive Director during a previous presidential administration shall have neither force nor effect in subsequent New Administrations nor, in the event that an individual is re-elected as President, shall nominations or appointments remain in force or effect.

b. When a vacancy occurs for any reason, there shall be two (2) stages in the confirmation process for an individual who the President wants to be the Executive Director of an Executive Department;; and

**WHEREAS,** on March 6, 2013 President Jon Greendeer presented the nomination of James Webster as Executive Director of the Department of Business; and

**WHEREAS,** the Legislature adopted Resolution 03-06-13Q; and

**WHEREAS,** the adoption of the aforementioned Resolution:

- (1) Classified the candidate as an Interim Director and proceeded to move his or her candidacy to the second stage of the confirmation process pursuant to the requirements of the Confirmation Act;
- (2) Required the Compliance Division to conduct a background investigation on James Webster, which must be concluded within forty-five days of adoption of the aforementioned Resolution; and
- (3) Required the Legislature to take action with respect to the nomination within 90 days or, pursuant to Article VI, section 2, subparagraph (e) “that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed.”

**NOW THEREFORE, BE IT RESOLVED** that the Legislature, pursuant to its Constitutional authority, hereby denies the confirmation of **James Webster** to the position of Executive Director of the **Department of Business** in accordance with Section 5 of the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9).

**BE IT FURTHER RESOLVED** that the Legislature, pursuant to its Constitutional authority and consistent with the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC §9) directs that the President shall nominate another candidate for the Executive Director position of the **Department of Business** and shall not be able to nominate the same individual whose nomination was denied as a result of this Resolution and that individual shall vacate the position and abdicate the title of Interim Director within forty-eight hours of the effective date of this denial.

**BE IT FURTHER RESOLVED** that the Legislature, pursuant to its Constitutional authority and consistent with the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC §9) directs that the President shall have fourteen days to nominate another candidate for the Executive Director position.

**CERTIFICATION**

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **11** constituting a quorum were present at a meeting duly called and convened and held that on the **8<sup>th</sup> day of April, 2013**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **5 members, 4 opposed, and 2 abstaining**, pursuant to the Article V, Section 2(a) and (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that the foregoing resolution has not been rescinded or amended in any way. I further certify that this is a verified copy of said resolution.

*Hope B. Smith*  
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Hope B. Smith, Tribal Secretary

*April 8, 2013*  
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Date

