



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE QUICK PASSAGE AMENDMENT TO THE *EMPLOYMENT RELATIONS ACT, 6 HCC § 5* CONCERNING WAKSIK WOSGA LEAVE

DEFEATED RESOLUTION 06-18-13F

- 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, organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS,** Article V, Section 2(a) of the Ho-Chunk Nation Constitution ("Constitution") grants the Ho-Chunk Nation Legislature ("Legislature") the power to make laws, including codes, ordinances, resolutions, and statutes; 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(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,** the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which was last amended on June 9, 2009; and
- WHEREAS,** the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and
- WHEREAS,** Section 30 of the *Legislative Organization Act* provides Quick Passage Procedures; and
- WHEREAS,** under certain limited circumstances, Section 30 provides "[t]he Legislature may vote to immediately pass Legislation"; and
- WHEREAS,** Section 30 of the *Legislative Organization Act* in relevant parts provides:
- (2) For the Legislation to be considered for Quick Passage the Legislature must conclude:
 - (a) The Legislation must take effect immediately to address a situation that:
 - 1 Adversely affects the health, safety, welfare, or economic well-being of the Nation;
 - 2 Adversely affects a person or multiple people for which Legislative relief is deemed appropriate and necessary by the Legislature;
 - 3 Is internal to the operation of the Government; or

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W9814 Airport Road P.O. Box 667 Black River Falls, WI 54615
(715) 284-9343 Fax (715) 284-3172 (800) 294-9343

4 Impacts negotiations with a sovereign entity; and

(b) Adherence to the Normal Legislation Process outlined in Section 31 would result in a delay that would adversely impact the Nation, a Member of the Nation, or Members of the Nation; and

WHEREAS, Section 30 of the *Legislative Organization Act* provides “[f]or the Legislation to immediately become the law of the Nation it will require an affirmative vote of more than two-thirds (2/3) of Legislators present at the Legislative Session.”; and

WHEREAS, the Legislature set various terms and conditions of employment with the Nation by adopting the Nation’s Employment Relations Act (“ERA”) on December 9, 2004 (effective on January 31, 2005); and

WHEREAS, the ERA is codified into Ho-Chunk law as 6 HCC § 5 and has been updated and amended from time to time, by Legislative action; and

WHEREAS, the ERA contains a Waksik Wosga Leave Policy within Chapter IV, at Section 21, which aims to promote participation by the Nation’s tribal member employees in the Nation’s cultural, traditional events as “workers, without the fear of losing their employment; and

WHEREAS, under the Waksik Wosga Leave Policy, leave is to be used for those families, clans, and individuals who are required by tradition to assist another clan during employment hours; and

WHEREAS, under the Waksik Wosga Leave Policy, the maximum amount of paid Waksik Wosga Leave for a tribal member employee is ten percent (10%) of the employee’s total hours worked for a given year; and

WHEREAS, the Waskik Wosga Leave Policy notes that abuse of the Policy may result in denials from the Traditional Court and, ultimately, the Director of the Personnel Department; and

WHEREAS, the Nation’s Personnel Department assists with implementation of the Waksik Wosga Leave Policy by calculating the number hours tribal member employees remain eligible to utilize; and

WHEREAS, with several traditional and cultural events of the Nation taking place over the last few months, many tribal member employees used their maximum allowable percentage of Waksik Wosga Leave hours under the ERA; and

WHEREAS, the Legislature finds it appropriate to amend the Waksik Wosga Leave provisions of the ERA in order to permit eligible employees to seek additional leave time from the Nation’s Traditional Court, based on the Court’s discretion, otherwise tribal member employees will be limited in their cultural, traditional practices; and

WHEREAS, the Legislature finds that adherence to the Normal Legislation process of the Legislative Organization Act would result in a delay that could adversely impact the Nation, and its tribal member employees who follow traditional, cultural practices of the Nation, in that the time for posting, comment, and review under the Normal process could adversely impact such employees; and

WHEREAS, the Legislature finds that adherence to the Normal Legislation process of the Legislative Organization Act would result in a delay that could adversely impact the Nation, inasmuch as it adversely impacts tribal member employees; and also that Quick Passage should be carried out in order to address a situation that adversely affects the health, safety, welfare, or economic well-being of the Nation, inasmuch as employees' ability to practice their tradition and culture is critical to the welfare of the Nation; and that this matter involves a situation that is internal to the operation of the Nation's government, inasmuch as it impacts the process and protocol used by the Personnel Department and Traditional Court;

NOW, THEREFORE, BE IT RESOLVED, that the Legislature concludes that the Employment Relation Act should be amended through the Quick Passage Procedure, since adherence to the Normal Legislation process of the Legislative Organization Act would result in a delay that could adversely impact the Nation, and also that Quick Passage should be carried out in order to address a situation that adversely affects the health, safety, welfare, or economic well-being of the Nation, and is internal to the operation of the Nation's government (as described above); and

NOW THEREFORE, BE IT FURTHER RESOLVED that the Legislature, pursuant to its Constitutional Authority, using the Quick Passage procedures of the *Legislative Organization Act* (2 HCC § 11), amends the Employment Relations Act, in Chapter IV, Section 21, Waksik Wosga Leave Policy, e. Limitations and f. Authority, with the underlined language as follows:

e. Limitations.

(1) The maximum amount of paid Waksik Wosga Leave is ten percent (10%) of the employee's total hours worked for a given year; provided, however, that if the employee has used their maximum number of Leave hours, they may seek approval for additional hours from the Traditional Court. Such approvals will comply with the Waksik Wosga Leave Policy and may be granted on a case-by-case basis, but will not exceed additional hours.

f. Authority. If required, the Traditional Court shall make recommendations and provide advice to the Director of Personnel regarding all questionable paid Waksik Wosga Leave. After consideration of advice from the Traditional Court, the Director of Personnel shall have final authority on all matters contained in this Policy. The Traditional Court is authorized to approve additional Leave hours beyond the ten percent limitation as described above, and consistent with the Waksik Wosga Leave Policy.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **12** constituting a quorum were present at a meeting duly called and convened and held on the **18th day of June, 2013**, did not adopt the foregoing resolution at said meeting by an affirmative vote of **4 members, 4 opposed, and 4 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, Tribal Secretary

Date