



# HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

## HO-CHUNK NATION LEGISLATURE QUICK PASSAGE PROCEDURE TO AMEND THE *EMPLOYMENT RELATIONS ACT* REGARDING HO-CHUNK PREFERENCE

### RESOLUTION 08-20-13J

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 part, 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
- 4 Impacts negotiations with a sovereign entity; and

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(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,** Chapter I of the Ho-Chunk Nation Employment Relation Act (“ERA”) contains provisions addressing Ho-Chunk tribal member preference in all aspects of tribal employment including, but not limited to, the following: “Section 5. Employment Clause. . . . b. Ho-Chunk Preference in Employment Clause. The Nation exercises Native American Preference in employment and shall exercise Ho-Chunk Preference in employment under limited circumstances, which furthers a legitimate governmental purpose, including the goal of employing tribal members at a rate to meet or exceed a majority (50% plus 1) of total employees.”; and

**WHEREAS,** the Legislature amended the Ho-Chunk Preference policy in 2011 in an attempt to improve the employment, training, and retention of tribal members; and

**WHEREAS,** consistent with Article V, Section 2(f) of the Constitution, the Legislature maintains an ongoing interest in Ho-Chunk Preference, as it affects tribal members, their families, and the well-being of the Nation as a whole; and

**WHEREAS,** since the underlying purpose of Ho-Chunk Preference is to ensure tribal member employment, the Legislature deems it appropriate to enhance the existing Preference policy in order to alleviate the high rates of unemployment by tribal members; and

**WHEREAS,** the Legislature has heard from the Nation’s Personnel Department and concerned tribal members regarding the employment rate of tribal members in the Nation’s facilities, and considered the potential obstacles to maximizing tribal member employment; and

**WHEREAS,** an internal Workgroup focused on the ERA and the Nation’s Preference Policy met on August 9, 2013 to discuss the application of the Nation’s Ho-Chunk Preference policy ; and

**WHEREAS,** based upon the initiatives of the Legislature, the Nation’s Personnel Department, and the internal Workgroup, and in order to ensure consistent application of the Preference policy and promote the legitimate governmental purpose of continued tribal member employment, the Legislature deems it necessary to amend the Ho-Chunk Preference provisions within Chapter I of the ERA; and

**WHEREAS,** the Legislature finds it appropriate to amend the ERA through Quick Passage procedure in order to address a situation (tribal member employment) that affects the health, safety, welfare, or economic well-being of the Nation and its Members, and is internal to the operation of the Nation’s government;

**NOW, THEREFORE, BE IT 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*, at Chapter I, Section 5 b as follows (with amendments underlined and italicized):

Section 5. Employment Clause.

b. Ho-Chunk Preference in Employment Clause. . . .

(2) Ho-Chunk Preference shall be used to recruit, hire, train, recall, reassign and lay off employees of the Nation. For hiring purposes, Ho-Chunk Preference shall be used for tribally funded positions and Native American Preference shall be used for all federally funded positions. In the hiring process, the Personnel Department shall post all new, open job positions first within the Nation for enrolled tribal members only, for a period of ten (10) business days; if any job position is not filled by a tribal member after ten (10) business days, then the Personnel Department may post job announcements publicly. In addition, notwithstanding any inconsistent provisions, whenever a position becomes vacant, the position shall remain open for a period of ten business days for a qualified tribal member employee to transfer into voluntarily, if the position is still utilized by management.

(4) The Personnel Department will provide training and orientation in the application of the Ho-Chunk Preference Policy to all employees who serve in a management or supervisory position. Before any interview is conducted for any job within the Nation, members of the interview panel will be provided similar training in the Ho-Chunk Preference Policy by the Personnel Department.

**BE IT FURTHER RESOLVED**, that the above amendment to the Employment Relations Act shall take effect when this Quick Passage Resolution is adopted.

**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 12 constituting a quorum were present at a meeting duly called and convened and held that on the 20<sup>th</sup> day of August, 2013, that the foregoing resolution was adopted at said meeting by an affirmative vote of 12 members, 0 opposed, and 0 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.

Kathleen Lone Tree-Whiterabbit  
Kathleen Lone Tree-Whiterabbit, Tribal Secretary

8.20.13  
Date