

NO ACTION TAKEN

**HO-CHUNK NATION LEGISLATURE
QUICK PASSAGE PROCEDURE TO AMEND
THE *TRIBAL EMPLOYMENT RIGHTS ORDINANCE* (6 HCC § 3)**

RESOLUTION 10-07-14L

- 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(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(e) of the Constitution grants the Legislature the power to raise revenue, including the power to levy and collect taxes and license fees; and
- WHEREAS**, Article V, Section 2(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation; 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(l) of the Constitution grants the Legislature the power to enact laws to manage, lease, permit, or otherwise deal with the Nation's lands, interests in lands or other assets; 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 January 21, 2014; and

WHEREAS, the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and

WHEREAS, Section 29 of the *Legislative Organization Act* provides Quick Passage Procedures; and

WHEREAS, under certain limited circumstances, Section 29 provides “[t]he Legislature may vote to immediately pass Legislation.”; and

WHEREAS, Section 29 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; or

2 Adversely affects a person or multiple people for which Legislative relief is deemed appropriate and necessary by the Legislature; or

3 Is internal to the operation of the Government; or

4 Impacts negotiations with a sovereign entity; and

(b) Adherence to the Normal Legislation Process outlined in Section 30 would result in a delay that would adversely impact the Nation, a Member of the Nation, or Members of the Nation; and

WHEREAS, Section 29 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 two-thirds (2/3) of the full Legislature seated in office”; and

WHEREAS, the Tribal Employment Rights Ordinance was first adopted by the Wisconsin Winnebago Business Committee on August 17, 1985 and was first adopted by the Legislature of the Nation on October 7, 1997, and amended most recently on April 8, 2013 (through Resolution 04-08-130); and

WHEREAS, the Tribal Employment Rights Ordinance (TERO) is codified into Ho-Chunk law as 6 HCC § 3 and amendments to the law have been discussed and debated since 2013 regarding the scope and application of the law; and

WHEREAS, Section 8 of the TERO law addresses TERO Fees and states that “[t]he Fees established for construction contracts shall be no more than four percent (4%) of the total contracted work or sales;” and

WHEREAS, Section 5 of the TERO law defines “Construction” broadly and “refers to any work related to the building of or renovation of roads or structures requiring physical labor ...”; and

WHEREAS, the Nation is on the verge of starting Community Reinvestment Plan (“CRP”) to upgrade, improve and expand the Nation’s business operations, which will involve construction at multiple tribally-owned locations, and require the Nation to finance such construction; and

WHEREAS, the Legislature finds that if the TERO law, and specifically the 4% TERO Fee, applies to the construction contracts related to the Community Reinvestment Plan, then the Fee may make the total project costs, and financing, cost-prohibitive to the Nation; and

WHEREAS, the Legislature finds that if the TERO 4% Fee applies to the CRP-related construction contracts, it likely will affect the economic well-being of the Nation; and

WHEREAS, the Legislature finds that by amending the TERO Ordinance through Quick Passage to exempt construction contracts that are paid for by Ho-Chunk Nation debt-financing, the change will address a situation that adversely effects the economic well-being of the Nation.

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 TERO Ordinance as follows in the underlined language:

Section 5. Definitions. Terms used in this Ordinance have the following meaning:

...

F. “Construction” refers to any work related to the building, ~~of~~ or renovation of, roads or structures requiring physical labor, except when such work is paid for by Ho-Chunk Nation debt-financing. Design and planning related work is generally considered vendor or service related work and subject to those provisions under the TERO Ordinance.”

Section 8. TERO Fees

“The Ho-Chunk Nation TERO Commission shall establish guidelines to determine the amounts for all Fees. The Fees established for construction contracts shall be no more than four percent (4%) of the total contracted work or sales. Construction contracts paid for by the Ho-Chunk Nation out of debt-financing are exempt from this Fee.”

Section 8. TERO Fees

D. Vendors and Service Provider Permits

“Every vendor or service provider, except for those providing such services related to construction paid for by Ho-Chunk Nation debt-financing, will be required to pay a TERO Fee of four percent (4%) of the overall sales or contract.”

BE IT FURTHER RESOLVED that this amendment to the law shall be effective immediately.

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 ___ constituting a quorum were present at a meeting duly called and convened and held that on the **7th day of October, 2014**, adopted the foregoing resolution at said meeting by an affirmative vote of ___ members, ___ opposed, and ___ 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, Tribal Secretary

Date