



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE APPOINTMENTS TO SERVE ON THE SECRETARIAL ELECTION BOARD AND REQUEST OF SECRETARIAL ELECTION BOARD FOR UPCOMING SECRETARIAL ELECTION

RESOLUTION 04-30-12A

- 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(d) of the Constitution grants the Legislature to authorize expenditures by law and appropriate funds to the various Departments in an annual budget; 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 XIII, Section 2 of the Constitution provides that "[i]t shall be the duty of the Secretary of the Interior to call and hold an election [a Secretarial Election] on any proposed amendment to this Constitution at the request of two thirds (2/3) of the entire Legislature, at the request of the General Council, or upon presentation of a petition signed by thirty (30) percent of the eligible voters of the Ho-Chunk Nation."; and

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WHEREAS, the HCN General Council adopted Resolution 10-01-2011-1 on October 1, 2011, which requested that the Secretary of the Interior conduct a Secretarial Election on eight (8) resolutions, pursuant to Article XIII, Section 2 of the Constitution, to amend the Constitution of the Nation; and

WHEREAS, the resolutions upon which the General Council requested a Secretarial Election were adopted at the 2009 General Council meeting and the 2011 General Council meeting, and

WHEREAS, specifically, the General Council adopted the following resolutions that seek to amend the Nation's Constitution via Secretarial Election:

1. Proposed Amendment A, based on General Council Resolution 9-12-09B. This would add a new Section 3(g) to Article IV of the Constitution, delegating authority to the General Council Agency ("GCA") to hire, manage and supervise staff of the GCA;
2. Proposed Amendment B, based on General Council Resolution 9-12-09E. This would amend Article V, Section 6 to prohibit individual members of the Legislature from serving more than two consecutive terms in office;
3. Proposed Amendment C, based on General Council Resolution 9-12-09F. This would amend Article VI by adding a new Section 6 prohibiting the President from serving more than two consecutive terms in office;
4. Proposed Amendment D, based on General Council Resolution 9-12-09G. This would amend Article VI, Section 2 by allowing a Presidential veto power over Legislative measures, and amend Article V, Section 2(y) by authorizing the Legislature to override a Presidential veto with a 2/3 majority vote;
5. Proposed Amendment E, based on General Council Resolution 9-12-09H. This would amend Article XII, Section 1 and Article IV, Section 3(a) by waiving the immunity from suit in the Ho-Chunk Nation Courts, in order to enforce the policies directed by the General Council;
6. Proposed Amendment F, based on General Council Resolution 9-12-09I. This would amend Article VII, Section 8(a) by changing the requirements for the Chief Justice of the Supreme Court to include membership in the Ho-Chunk Nation;
7. Proposed Amendment G, based on General Council Resolution 9-12-09J. This would amend Article VII, Section 11 by changing the requirement for Trial Court judges to be members of the Ho-Chunk Nation; and
8. Proposed Amendment H, based on General Council Resolution 9-17-2011 12. This would eliminate the requirement that Legislators possess a four year degree from an accredited institution of higher learning; and

WHEREAS, the Legislature responded to General Council Resolution 9-17-2011 12 by adopting Legislative Resolution 10-18-11E, which requested a Secretarial Election on an expedited basis, consistent with the General Council Resolution, in order to rescind the existing Constitutional requirement that Legislators possess a four year degree from an accredited institution of higher learning; and

WHEREAS, Legislative Resolution 10-18-11E was adopted with the number of votes required under Article XIII, Section 2 of the Constitution; and

WHEREAS, By a letter dated April 12, 2012, the Midwest Regional Office of the Bureau of Indian Affairs (hereinafter "Midwest BIA") authorized the Superintendent of the Great Lakes Agency of the BIA to call and conduct a Secretarial Election pursuant to the applicable provisions of the Code of Federal Regulations ("CFR") 25 CFR Part 81; and

WHEREAS, the April 12, 2012 letter from the Midwest BIA stated that the BIA Superintendent was authorized to conduct the Secretarial Election on the above-noted amendments, and must act upon such authorization within 90 days of April 12, 2012; and

WHEREAS, the BIA Superintendent mailed a copy of the April 12, 2012 Midwest BIA authorization letter to the attention of the Nation's President, Jon Greendeer, by letter dated April 19, 2012, yet said letter was not provided by President Greendeer (or the Legislature) until April 25, 2012; and

WHEREAS, the BIA Superintendent has clarified that the 90 day deadline means that the Secretarial Election Board has 90 days from April 12, 2012 to officially meet and plan the Secretarial Election pursuant to 25 CFR Part 81; and

WHEREAS, one applicable provision of 25 CFR Part 81.8 is entitled "Election Board," and states in subsection (a):

"There shall be an election board [hereinafter "Secretarial Election Board"] consisting of the officer in charge acting as chairman and at least two representatives of the tribal governing body or an authorized representative committee. Where such persons may be unwilling or unable to serve, the chairman shall select at least two adult members of the tribe to serve. In addition, the officer in charge may appoint an interpreter and as many clerks and poll watchers as he/she deems necessary, but they shall not be members of the board"; and

WHEREAS, another applicable provision of 25 CFR § 81.8 is entitled "Election Board" and states in subsection (b):

"It shall be the duty of the board to conduct elections in compliance with the procedures described in this part and in particular:

- (1) To see that the name of each person offering to vote is on the official list of registered voters;
- (2) To keep the ballot boxes locked at all times except when ballots are being counted;
- (3) To see that ballots are cast only by registered voters and that the voting list is checked to indicate this;
- (4) To begin to count the regularly cast ballots immediately after the close of the polls and then the absentee ballots, pursuant to §81.21;
- (5) To post and certify the election returns;
- (6) To return the following to the officer in charge:
 - (i) The ballots (in marked and locked boxes);
 - (ii) All unused ballots; and

(iii) The completed Certificate of Results of Election. The officer in charge shall retain the ballots and other material among official records for at least one year. At the end of one year, the officer in charge shall forward the contents of the boxes and other related material to the appropriate Federal Records Center;" and

WHEREAS, another applicable provision of 25 CFR Part 81.10 is entitled "District Election Board" and provides:

"(a) Where voting districts have been established by the tribal constitution, ordinance, resolution, or by the election board, the election board shall appoint district election boards for each district, which shall have the duties prescribed above for the election board except that they shall return to the election board: (1) The ballots (in marked and locked boxes), (2) All unused ballots, and (3) Their certifications of the district election results on the certification forms prescribed by the election board.

(b) The board will compile the election results for the entire reservation and transmit them together with the aforementioned ballots and ballot boxes to the officer in charge;" and

WHEREAS, Article V, Section (1) (b) of the Ho-Chunk Nation Constitution establishes voting districts for the Ho-Chunk Nation; and

WHEREAS, The Ho-Chunk Nation *Election Ordinance* (2 HCC § 6) establishes an Election Board [hereinafter "Ho-Chunk Nation Election Board"]; and

WHEREAS, the General Council Agency met with the BIA Superintendent on April 24, 2012 and provided a letter (dated April 23, 2012) that appointed the following persons to serve on the Secretarial Election Board:

1. Marvin Decorah, Sr., Chairman, GCA
2. Muriel Whiteagle-Lee, Vice-Chair, GCA
3. Wilma Thompson, Secretary/Treasurer, GCA
4. Francis Decorah, GCA Agent
5. Pine Giroux, GCA Administrator
6. A Ho-Chunk Nation Legislator (to be appointed by the Legislature), and
7. Judy Whitehorse-Hilmer, Chair, HCN Election Board; and

WHEREAS, when the BIA previously assisted the Nation with a Secretarial Election to amend its Constitution in 2009, the Legislature constituted the Secretarial Election Board and appointed various persons (including two representatives from the General Council Agency and two from the HCN Election Board) through Resolution 2-17-09F; and

WHEREAS, the Legislature deems it appropriate to be the entity from the Nation that makes the appointments to the Secretarial Election Board at this time, since 25 CFR Part 81.8 states that the board will consist of "representatives from the tribal governing body or an authorized representative committee;" and

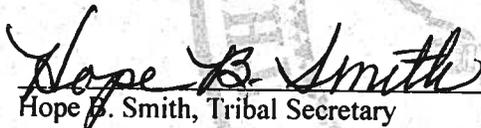
NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority and the requirements of 25 CFR § 81.8, appoints the following individuals to serve on the Secretarial Election Board, as the Nation's authorized representative committee:

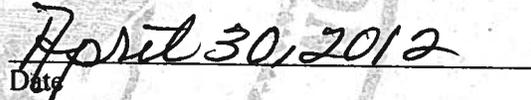
1. Marvin Decorah, Sr., Chairman, GCA
2. Muriel Whiteagle-Lee, Vice Chair, GCA
3. Patrick Red Eagle, District 5 Legislator
4. Melanie Stacy, Paralegal, Legislature
5. Judy Whitehorse-Hilmer, Chair, HCN Election Board
6. Office Administrator, HCN Election Board

BE IT FURTHER RESOLVED that the Legislature, pursuant to its Constitutional authority, requests that the Secretarial Election Board appoint Members of the Ho-Chunk Nation Election Board to serve as the district election boards for each district.

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 11 constituting a quorum were present at a meeting duly called and convened and held that on the **30th day of April, 2012**, adopted the foregoing resolution at said meeting by an affirmative vote of **11 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.


Hope B. Smith, Tribal Secretary


Date