

DEFEATED RESOLUTION

HO-CHUNK NATION LEGISLATURE FORMATION OF WORK GROUP TO STUDY THE POSITIVE AND NEGATIVE IMPACTS OF SEPARATING BUSINESS FROM GOVERNMENT PURSUANT TO SECTION 17 OF THE *INDIAN REORGANIZATION ACT* RESOLUTION 11-03-09 D

- 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(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(j) of the Constitution grants the Legislature the power to authorize and appropriate funds to employ legal counsel in accordance with applicable law; and
- WHEREAS,** Article V, Section 2(q) of the Constitution grants the Legislature the power to issue charters of incorporation, to charter corporations and other organizations for economic or other purposes, and to regulate their activities; 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,** Section 17 of the *Indian Reorganization Act* provides:
The Secretary of the Interior may, upon petition by any tribe issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified by the governing body of such tribe Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefore interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding 25 years any trust or restricted lands included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.; and

WHEREAS, numerous tribes have used Section 17 of the *Indian Reorganization Act* to successfully separate the day to day running of their business operations from their government; and

WHEREAS, consultation with the Tribes who have used Section 17 of the *Indian Reorganization Act* to separate business from government will be important as the Nation pursues separating business from government; and

WHEREAS, the Legislature adopted the *Business Corporation Ordinance* (5 HCC § 2) which creates business corporation law for the Nation and provides procedures to organize a corporation under the Nation’s laws; and

WHEREAS, the General Council passed Resolution 10-11-03-I calling upon the Legislature to separate business from government.

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, forms a work group to study the possibility of the Nation separating its business from its government pursuant to the terms of Section 17 of the *Indian Reorganization Act*.

BE IT FURTHER RESOLVED that the following individuals shall be members of the work group:

- Any interested Legislator;
- JoAnn Jones, Business Consultant for the Nation;
- Jon Warner, Business Development Manager;
- Attorney General Sheila Corbine and/or any Department of Justice Attorney designated by the Attorney General;
- Legislative Attorney Scott Sussman; and
- Any individual from the Office of the President as selected by the President.

BE IT FURTHER RESOLVED that the work group shall make reports to the Legislature on its progress.

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 3rd day of November, 2009, that the foregoing resolution was adopted at said meeting by an affirmative vote of 4 members, 8 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