



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE PROTECTION OF HO-CHUNK EMPLOYEE POSITIONS UNDER FY 2012-2013 SPENDING LIMITS

RESOLUTION 01-18-12 E

- 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(d) of the Constitution empowers 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(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 Legislature enacted the Ho-Chunk Nation Employment Relation Act ("ERA"), which contains provisions, in Chapter I, addressing Ho-Chunk tribal member preference in all aspects of tribal employment, including the following:

"Section 5. Employment Clause.

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- 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) total employees.

Executive Offices

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(1) The Nation will exercise Ho-Chunk Preference in Employment, prioritized as follows:

- (a) Hocak Wazijaci Tribal member.
- (b) Spouse or Parent of Hocak Wazijaci Tribal member.
- (c) Native American Tribal member.

When the Ho-Chunk Nation is the Employer providing funding, it shall give preference in Equal Opportunities first to Tribal Members, then to Spouses or Parents of Tribal Members, and then to other Native Americans; provided, that the Tribal Member, Spouse or Parent of a Tribal Member, or Native American, as the case may be, meets the minimum necessary qualifications. Thereafter, the Employment Opportunity shall be open to any other candidate who meets the Minimum Necessary Qualifications of the position. If no candidate for an Employment Opportunity meets the Minimum Necessary Qualifications, then preference shall be given first to Tribal Members, then to Spouses or Parents of Tribal Members, and then to other Native Americans, who are capable of being trained to the Minimum Necessary Qualifications of the position.

(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. This employment preference policy shall be construed to mean that an individual Ho-Chunk member who satisfies the minimum employment qualifications for a particular position will be afforded preference over all other individuals and that in situations where two (2) or more Ho-Chunk members are being considered for employment, that there is a distinction between qualification and preference. Thus, this policy's application is the determining factor when two (2) or more individuals have suitable job qualifications – the individual having preference standing shall be afforded the employment opportunity. The Department of Personnel is responsible for monitoring the Preference Policy. Disciplinary action will occur for supervisors who do not adhere to this policy"; and

WHEREAS, the Legislature amended the Ho-Chunk Preference policy provisions of the ERA in June 2011 to enhance the protections for tribal member employees and further the Nation's legitimate governmental interest in tribal member employment; 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, the Legislature deems it appropriate to express its intent, as a function of its authority to set the terms and conditions of employment and to appropriate funds, that tribal member employees be protected from layoffs in light of any tribal spending limits that were, or will be, set in the Fiscal Year 2012-13 budget;

NOW, THEREFORE, BE IT RESOLVED, that the Legislature directs that no tribal member employees shall be laid off as a result of the 2012-2013 Fiscal Year spending limits that were, or will be, set.

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 on the 18th day of January, 2012, adopted the foregoing resolution at said meeting by an affirmative vote of **7 members, 1 opposed, and 3 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

Hope B. Smith, Tribal Secretary

January 18, 2012

Date

