



## HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

### HO-CHUNK NATION LEGISLATURE QUICK PASSAGE PROCEDURE TO AMEND THE *EMPLOYMENT RELATIONS ACT* RESOLUTION 08-08-11B

- 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(g) of the Constitution authorizes the Legislature to set its own procedures, select its officers, and to enact laws governing attendance of its members, including penalties for absences; 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 *Employment Relations Act* ("*ERA*") (6 HCC § 5), which was last amended on June 8, 2011; 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 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;

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- 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

(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,** Chapter VI- Drugs, Alcohol and Controlled Substance Policy of the *Ho-Chunk Nation Employment Relations Act (“ERA”)* contains provisions addressing drug, alcohol and controlled substance testing of Ho-Chunk Nation employees and potential Ho-Chunk Nation Employees. “**Section 52. Testing Procedures subsection (a). The Initial Drug Test will test for at least the following substances:**

- Cannabinoids**
- Cocaine**
- Benzodiazepines**
- Opiates**
- Barbiturates**
- Amphetamines**
- Phencyclidine**
- Propoxyphene**
- Methadone**
- Methaqualone.” (remove and add Oxycodone)**

Marshfield Laboratories, who is contracted to perform all drug screening and testing for the Ho-Chunk Nation has notified the Nation that as of August 1, 2011, they will be removing Methaqualone from the drug testing panels and replacing it with Oxycodone drug class as it is seen more prevalently today and is shown on the rise for abuse. In addition, over the last ten (10) years Marshfield Laboratories has never seen a positive Methaqualone result. Therefore, Oxycodone drug class will replace the Methaqualone drug class, and

**WHEREAS,** with the testing procedures of Marshfield Laboratories changing as of August 1, 2011, it is necessary to immediately revise the *Ho-Chunk Nation Employment Relations Act* to be consistent with recent testing changes and recognize the rise for abuse of Oxycodone and the need to protect and ensure the well-being of the Nation’s tribal employees and prospective employees as well as protection of the economic well-being of the Nation;

**NOW, THEREFORE, BE IT RESOLVED,** that the Legislature concludes that the *Employment Relations Act* should be amended through the Quick Passage Procedure, since adherence to the Normal Legislation process of the *Legislative Organization Act* would result in a delay that could adversely impact the Nation, and also that Quick Passage should be carried out in order to address a situation that

adversely affects the health, safety, welfare, or economic well-being of the Nation, and is internal to the operation of the Nation's government; and

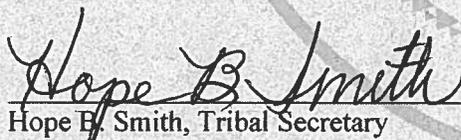
**NOW THEREFORE, BE IT FURTHER RESOLVED** that the Legislature, pursuant to its Constitutional Authority, using the Quick Passage procedures of the *Legislative Organization Act* (2 HCC § 11), amends the *Employee Relations Act*, at Chapter VI, Section 52, a, by deleting the existing language and adding the following language:

**(a). The Initial Drug Test will test for at least the following substances:**

**Cannabinoids**  
**Cocaine**  
**Benzodiazepines**  
**Opiates**  
**Barbituates**  
**Amphetamines**  
**Phencyclidine**  
**Propoxyphene**  
**Methadone**  
**Oxycodone**

**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 8<sup>th</sup> day of August, 2011, that the foregoing resolution was adopted at said meeting by an affirmative vote of **9 members, 0 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, Tribal Secretary

  
Date