



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE DENIAL OF ACCEPTANCE OF APPLICATION OF ONA GARVIN TO BE INTERIM DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION

RESOLUTION 11-08-11J

- 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(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 (c) of the Constitution grants the Legislature the power to constitute a Board of Directors for each Department, except the President shall name the Executive Director, subject to confirmation by the Legislature; 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 VI, Section 2(e) provides "[t]he President shall have the power... (e) To nominate the Executive Directors of each Department subject to confirmation by the Legislature except that if a confirmation vote is not taken by the Legislature within ninety (90) days the nomination shall be deemed confirmed."; and

Executive Offices

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WHEREAS, the Legislature adopted the *Confirmation Process of Executive Directors of the Ho-Chunk Nation Act* (2 HCC § 9) (hereinafter “Confirmation Act”); and

WHEREAS, Section 2 of the Confirmation Act provides “[t]he purpose of this Act is to assist in an orderly transition between Executive administrations through a confirmation process. This Act shall be applicable to all Executive Directors, Interim Directors, and candidates for a Director Position.”; and

WHEREAS, Section 5 of the Confirmation Act provides:

5. Nomination Process. The President, pursuant to Article VI, Section 2(e) of the Constitution of the Ho-Chunk Nation, must name all Executive Directors, subject to the confirmation of the Legislature:

- a. Confirmation by the Legislature of an Executive Director during a previous presidential administration shall have neither force nor effect in subsequent New Administrations nor, in the event that an individual is re-elected as President, shall nominations or appointments remain in force or effect.
- b. When a vacancy occurs for any reason, there shall be two (2) stages in the confirmation process for an individual who the President wants to be the Executive Director of an Executive Department:
 - (1) In the first stage the individual who the President wants to be Executive Director shall be classified as a Candidate. For an individual to be classified as a Candidate, the Legislature will not have taken any action with respect to that individual. The President, within fourteen (14) days of a vacancy, shall submit the candidate’s application to the Legislature for its consideration. Upon the President submitting an application of a Candidate, the Legislature within two (2) regular Legislative Sessions at a Nomination Hearing shall either deny or accept the candidate.; and

WHEREAS, Section 5, subparagraph b. (1) (a) of the Confirmation Act further provides:

If the Legislature elects to deny the application of the candidate, the Legislature shall use the Resolution attached as Appendix A and entitled “DENIAL OF ACCEPTANCE OF APPLICATION OF [NAME OF CANDIDATE] TO BE INTERIM DIRECTOR OF THE [NAME OF EXECUTIVE DEPARTMENT]” or a similarly worded Resolution. If the Legislature denies the application of the candidate, the position of Executive Director shall be considered vacant and the President shall be required to submit another candidate to the Legislature for its consideration within fourteen (14) days of the Legislature passing the denial Resolution.

WHEREAS, the President selected Ona Garvin to be a candidate for the position of Executive Director of the Department of Administration.

NOW THEREFORE, BE IT RESOLVED that the Legislature, pursuant to its Constitutional authority, denies the acceptance of Ona Garvin to be an Interim Director of the Department of Administration.

BE IT FURTHER RESOLVED that the position of Executive Director of the Department of Administration shall be considered vacant and the President shall be required to submit another candidate to the Legislature for its consideration within fourteen (14) days of the Legislature passing this denial resolution.

CERTIFICATION

I, the undersigned, as Tribal Secretary of the Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of **13 members** of whom **10** constituting a quorum were present at a meeting duly called and convened and held on the **8th day of November, 2011**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **5 members, 2 opposed, and 3 abstaining**, pursuant to 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

November 8, 2011

Date

