



HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE REQUEST FOR A EXPEDITED SECRETARIAL ELECTION PURSUANT TO GENERAL COUNCIL RESOLUTION 09-17-2011 12

RESOLUTION 10-18-11E

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(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(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 IV, Section (1) of the Constitution provides that "the People of the Ho-Chunk Nation hereby grant all inherent sovereign powers to the General Council. All eligible voters of the Ho-Chunk Nation are entitled to participate in General Council;" and

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W9814 Airport Road P.O. Box 667 Black River Falls, WI 54615
(715) 284-9343 Fax (715) 284-3172 (800) 294-9343

WHEREAS, Article IV, Section (2) of the Constitution provides that “[t]he General Council hereby authorizes the legislative branch to make laws and appropriate funds in accordance with Article V. The General Council hereby authorizes the executive branch to enforce the laws and administer funds in accordance with Article VI. The General Council hereby authorizes the judicial branch to interpret and apply the laws and Constitution of the Nation in accordance with Article VII;” and

WHEREAS, Article IV, Section (3) of the Constitution provides that “(a) The General Council retains the power to set policy for the Nation.

(b) The General Council retains the power to review and reverse actions of the Legislature except those enumerated in Section 4 of this Article. The General Council shall return such reversals to the Legislature for reconsideration consistent with the action of the General Council. The General Council retains the power to review and reverse decisions of the Judiciary which interpret actions of the Legislature. The General Council does not retain the power to review and reverse decisions of the Judiciary which interpret this Constitution.

(c) The General Council retains the power to propose amendments in accordance with Article XIII, including those which reverse decisions of the Judiciary interpreting this Constitution.

(d) The General Council retains the power to establish its own procedures in accordance with this Constitution.

(e) The General Council retains the power to call a Special Election.

(f) Actions by the General Council shall be binding;” and

WHEREAS, Article XIII, Section 1 of the Constitution provides that “[t]his Constitution may be amended by a majority vote of the qualified voters of the Ho-Chunk Nation voting at an election called for that purpose by the Secretary of Interior, provided, that at least thirty (30) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until approved by the Secretary of the Interior or until deemed approved by the Secretary by operation of law. If the voters adopt the amendment(s), the Secretary of Interior shall approve such amendment(s), within forty-five (45) days after the election unless the amendment(s) are contrary to applicable law.”; and

WHEREAS, Article XIII, Section 2 of the Constitution provides that “it shall be the duty of the Secretary of Interior to call and hold an 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

WHEREAS, the Ho-Chunk Nation President called an Annual General Council meeting which was held on September 17, 2011; and

WHEREAS, the Ho-Chunk Nation is composed of 5256 members of whom 1587 registered for voting purposes; and

WHEREAS, a proposal to amend the Nation's Constitution was introduced and entitled: "A Resolution to Amend the Constitution Repealing Amendment V, Which Requires a Bachelors Degree to Serve as a Legislator," which was adopted at the duly called General Council 2011 with an affirmative vote of 762 eligible voting member, 757 opposed, and 68 abstaining; and

WHEREAS, the Ho-Chunk Nation Legislature recognizes that **Resolution 09-17-2011 12** is a request by the General Council and are therefore entitled to go through the Secretarial Election process, but that passage of this Legislative resolution shall not be seen as an endorsement of any General Council resolution by the Legislature; and

WHEREAS, the Legislature previously adopted *Resolution 10-4-11B* to request a Secretarial Election pursuant to General Council Resolution 9-17-2011 12, but rescinded that resolution after concluding that the Legislature preferred to make an expedited request for Secretarial Election;

NOW THEREFORE, BE IT RESOLVED that the Legislature requests that the Bureau of Indian Affairs conduct an *expedited* Secretarial election on the proposed amendment to the Constitution under Article XIII, Section 2 of the Constitution based on the following General Council Resolution. The proposed amendment seeks to delete language from an existing Constitutional provision, which is shown by the strikethrough language below:

General Council Resolution 09-17-2011 12

Proposed Amendment to Article V, Section 7

Qualifications. Members of the Legislature shall be at least twenty-five (25) years old and eligible to vote ~~and shall possess a four-year baccalaureate degree conferred by an accredited institution of higher education.~~ No person shall become a member of the Ho-Chunk Legislature if otherwise employed by the Ho-Chunk Nation. No person convicted of a felony shall serve as a Legislator unless pardoned.

BE IT FURTHER RESOLVED, that the Ho-Chunk Nation has made several requests to United States Department of Interior, in years past, to conduct a Secretarial election under Article XIII, Section 2 of the Constitution.

BE IT FURTHER RESOLVED, that the Ho-Chunk Nation Legislature requests on behalf of the General Council that a Secretarial election be conducted on an expedited basis in accordance with General Council resolution **09-17-2011 12**.

CERTIFICATION

I, the undersigned, as Tribal Secretary for the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **13 members** under the constitution, 12 of which were seated on this day and constitute the entire Legislature, with 11 members present to constitute a quorum at a meeting duly called and convened and held on the **18th day of October, 2011**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **8 members, 1 opposed, and 2 abstaining**, pursuant to the authority of Article V, Section 2(a) through (x) of the Constitution of the Ho-Chunk Nation approved by the Secretary of the Interior on November 1, 1994, and that said 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

October 18, 2011

Date

