HO-CHUNK NATION LEGISLATURE

Governing Body of the Ho-Chunk Nation

HO-CHUNK NATION LEGISLATURE
AMENDMENT TO THE *EMPLOYMENT RELATIONS ACT*
(6 HCC § 5) TO ENABLE PENALITIES AGAINST
A SUPERVISOR WHO TAKES INAPPROPRIATE EMPLOYMENT
ACTIONS AGAINST AN EMPLOYEE
RESOLTUION 5-05-09 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, 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(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(h) of the Constitution grants the Legislature the power to enact all laws prohibiting and regulating conduct, and imposing penalties upon all persons within the jurisdiction of the Nation; 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, the Ho-Chunk Nation Legislature passed the *Legislative Organization Act* (2 HCC § 11), which was last amended December 10, 2008; and

WHEREAS, the *Legislative Organization Act* provides the procedures for enacting or amending a Ho-Chunk Nation law; and

WHEREAS, one law subject to the amendment procedures of the *Legislative Organization Act* is the *Employment Relations Act* (6 HCC § 5), which controls the employment policies of the Nation; and

WHEREAS, the Legislature by Legislative Resolution 12/09/04A adopted the *Employment Relations Act* (6 HCC § 5), which was last amended by Resolution 3-17-09 H; and

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WHEREAS, the Legislature has been considering a substantial number of amendments to the *Employment Relations Act* in order to improve the employment policies of the Nation; and

WHEREAS, pursuant to the requirements of the *Legislative Organization Act*, at its April 9, 2009 meeting, the Administration Committee considered the amendments to the *Employment Relations Act*; and

WHEREAS, pursuant to Section 31, subparagraph d. (4) of the *Legislative Organization Act*, the Administration Committee referred one of the proposed amendments to the *Employment Relations Act* to the full Legislature for passage by adopting the following motion " [m]otion [. . .] to recommend Legislative Counsel's Office provide changes to the current Employment Relations Act, to add language that sanctions supervisors for violating the Employment Relations Act, and to provide the change for the next Legislative Meeting."; and

WHEREAS, with respect to the other proposed amendments to the *Employment Relations Act*, the Administration Committee passed the following motion "[m]otion [. . .] to schedule an Off-Site for the Employment Relations Act for Thursday, May 7, 2009."; and

WHEREAS, the amendment the Administration Committee referred to the Legislature for passage would enable the Grievance Review Board to penalize a supervisor who it determines has wrongfully taken inappropriate employment actions against an employee of the Nation; and

WHEREAS, the inappropriate employment action includes a supervisor wrongfully suspending, terminating, harassing, discriminating, or violating the hiring process of an employee; and

WHEREAS, when a supervisor takes this type of action it harms the reputation of the Nation, creates an adverse employment environment, and helps to foster disharmony amongst the Nation's employees.

NOW THEREFORE BE IT RESOLVED, that the Legislature, pursuant to its Constitutional authority, amends Chapter V, Sections 34 through 36 of the *Employment Relations Act* (6 HCC § 5).

BE IT FURTHER RESOLVED, that these amendments will provide that a supervisor may be sanctioned when the Grievance Review Board determines that the supervisor has wrongfully suspended, terminated, harassed, discriminated, or violated the hiring process of an employee.

BE IT FURTHER RESOLVED, that pursuant to the requirements of Article X, Section 1 (a) (9) of the Ho-Chunk Nation Constitution, the sanctions authorized by these amendments shall only be applicable if a supervisor wrongfully suspends, terminates, harasses, discriminates or violates the hiring process of an employee after the effective date of these amendments.

CERTIFICATION

I, the undersigned, as Tribal Secretary of Ho-Chunk Nation, hereby certifies that the Legislature of the Ho-Chunk Nation, composed of **11 members** of whom **8** constituting a quorum were present at a meeting duly called and convened and held that on the **5th day of May, 2009**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **5 members, 1 opposed, and 2 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.

Elliott Garvin, Tribal Secretary

5-5-09
Date