



# HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

## HO-CHUNK NATION LEGISLATURE AMENDMENT TO THE EMPLOYMENT RELATIONS ACT (6 HCC §5) RESOLUTION 2-19-08 A

- 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(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 Legislature enacted the *Employment Relations Act* (6 HCC §5) as the employment law of the Nation by Legislative Resolution 19/9/04A; and
- WHEREAS,** Chapter V, Section 34 of the *Employment Relations Act* (6 HCC §5) provides "all eligible employees who have been subject to suspension or termination a means of having the circumstances of such disciplinary action reviewed by an impartial and objective Grievance Review Board."; and
- WHEREAS,** in the court case of *Janet Funmaker v. Executive Director(s) of Personnel* (SU 07-05) the Ho-Chunk Nation Supreme Court ruled on the power of the Grievance Review Board to provide monetary awards to grieving employees; and
- WHEREAS,** the Supreme Court held that the only limitation on the Grievance Review Board for awarding monetary relief to employees who file a grievance is that the monetary relief must be an "appropriate remedy."; and

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**WHEREAS,** Chapter V, Section 35 of the *Employment Relations Act* (5 HCC §6) only gives the Trial Court power “to award monetary damages for actual wages established by the employee in an amount not to exceed \$10,000, subject to actual taxation.”; and

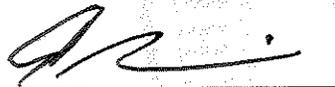
**WHEREAS,** pursuant to Chapter III, Section 31 of the *Legislative Organization Act* (2 HCC §11) the Legislature motioned to place the proposed Amendment out for forty-five day public review on December 18, 2007.

**NOW THEREFORE BE IT RESOLVED** that the Legislature, pursuant to its Constitutional authority, hereby amends the *Employment Relations Act* (6 HCC §5) to provide that the Grievance Review Board “may only order monetary damages for actual lost wages established in the facts of the case in an amount not to exceed \$10,000.00, subject to applicable taxation.”; and

**BE IT FURTHER RESOLVED** that the Legislature, pursuant to its Constitutional authority, makes further amendments to the procedures of the Grievance Review Board that are incorporated within the attached version of the *Employment Relations Act* (6 HCC §5).

**CERTIFICATION**

I, the undersigned, as Tribal Secretary for the Ho-Chunk Nation, hereby certify that the Legislature of the Ho-Chunk Nation, composed of **11 members**, of whom **6** constituting a quorum were present at a meeting duly called and convened and held on the **19<sup>th</sup> day of February, 2008**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **5 members, 0 opposed, and 1 abstaining**, pursuant to the authority of 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 said 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

2-19-08

Date