



## HO-CHUNK NATION LEGISLATURE

*Governing Body of the Ho-Chunk Nation*

### HO-CHUNK NATION LEGISLATURE REQUEST TO BIA TO CONDUCT A SECRETARIAL ELECTION RESOLUTION 11-05-08 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(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 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
- WHEREAS,** Article IV, Section (2) 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) 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.

#### **Executive Offices**

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(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 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.

**WHEREAS,** Article XIII, Section 2 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."

**WHEREAS,** on July 8, 2008 a Legislative failed to pass a resolution requesting a Secretarial Election; and

**WHEREAS,** some of the Tribal Membership through District Meeting motions has asked that the resolution be re-considered by the Legislature.

**WHEREAS,** the Ho-Chunk Nation Legislature recognizes that the General Council has voted on the attached General Council resolutions and are therefore entitled to go through the Secretarial Election process, but that passage of this resolution shall not be seen as an endorsement of any General Council resolution by the Legislature.

**NOW THEREFORE, BE IT RESOLVED** that the Legislature requests that the Bureau of Indian Affairs conduct a Secretarial election on proposed amendments to the Constitution under Article XIII, Section 2 of the Constitution to the following General Council Resolutions. Proposed additions are underlined, proposed deletions are struck through.

Resolution 10-23-04-1

Proposed addition to Article II, Section 1

**DNA TESTING AND RELINQUISHMENTS**

- c. DNA must prove parentage. "DNA" means deoxyribonucleic acid.
- d. Beginning the date this amendment is approved, the Ho-Chunk Nation shall no longer consider or accept for enrollment any person who has previously been enrolled as a member of in another Tribe ("including the Winnebago Tribe of Nebraska). ~~[New section adopted by Amendment I on January 26, 2000 and approved by the Secretary on March 3, 2000.]~~

Resolution 10-23-04(4)

Proposed addition to Article V, Section 6

Proposed addition to Article VI Section 1

"b. The Executive Branch shall be composed of any administrative Departments created by the Legislature, including a Department of the Treasury, Justice, Administration, Housing, Business, Health and Social Services, Education, Labor, and Personnel, and other Departments deemed necessary by the Legislature. Each Department shall include an Executive, a Board of Directors, and necessary employees. The Executive Director of the Department of Justice shall be called the Attorney General of the Ho-Chunk

Nation. The Executive Director of the Department of the Treasury shall be called the Treasurer of the Ho-Chunk Nation.”

Resolution 10-23-04(8)

Proposed Amendment Article V, Section 4.

Redistricting or Reapportionment. The Legislature shall have the power to redistrict or reapportion including changing, establishing, or discontinuing Districts. The Legislature shall maintain an accurate census for the purposes of redistricting or reapportionment. The Legislature shall redistrict and reapportion at least once every ~~five~~ ~~ten~~ ~~(5)~~ (10) years beginning in 1995, in pursuit of one- person/one-vote representation. The Legislation shall exercise this power only by submitting a final proposal to the vote of the people by Special Election which shall be binding and which shall not be reversible by the General Council. Any redistricting or reapportionment shall be completed at least six (6) months prior to the next election, and notice shall be provided to the voters.

Resolution 10-23-04(9)

Proposed Amendment Article V, Section 7

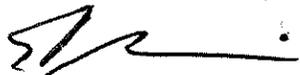
Qualifications. Members of the Legislature shall be at least twenty-five (25) years old and eligible to vote and shall possess a four-year baccalaureate degree conferred by an accredited institution of higher education. No person shall become a member of the Ho-Chunk Legislature if otherwise employed 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 as soon as possible on the above resolutions.

**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 **11** constituting a quorum were present at a meeting duly called and convened and held on the **5<sup>th</sup> day of November, 2008**, that the foregoing resolution was adopted at said meeting by an affirmative vote of **10 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

11-5-08  
\_\_\_\_\_  
Date