

Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution # 02-0814-02

Constitutional Amendments - Election of Tribal Court Judges and Appellate Judges

WHEREAS, the Tribe's status as a federally recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. §1300k et seq.); and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is authorized under Article XIV, Section 2, to present amendments to the Constitution to the Secretary of the Interior to hold a Secretarial Election when such amendments are adopted by resolution of the Tribal Council; and

WHEREAS, the Tribal Council has been presented amendments which call for the election of Tribal Court Judges and Appellate Judges; and

WHEREAS, the Tribal Council has reviewed and recommended clarification of the proposed amendments in work sessions held on February 7, 2002 and April 11, 2002; and

WHEREAS, the Tribal Council has reviewed legal analysis of the proposed amendments presented on January 18 and March 25, 2002; and

WHEREAS, the Tribal Council has determined that these amendments are in an appropriate format and should proceed to a Secretarial Election and that by adoption of this resolution identifies its support that such amendments should be presented; and

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby requests the Secretary of the Interior to present the following amendment to the Constitution of the Little River Band of Ottawa Indians to the membership for consideration in a Secretarial Election in accordance with Article XIV, Sections 1 and 2:

Article VI

Section 4 - Appointment Election and Compensation.

(a) ~~Judges of the Tribal Courts, including the Court of Appeals, shall be appointed by the Tribal Ogema, provided such appointment must be confirmed by the Tribal Council.~~ *Judges of the Tribal Court, including the Court of Appeals, shall be elected by the registered voters.*

1. *Current Judges. The current tribal judges as of adoption of these amendments shall identify the following:*

A. *Tribal Court judges shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth in Section 5(a).*

B. *Court of Appeals judges shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth in Section 5(a).*

2. *Declaration of Tribal Court or Court of Appeals Candidacy. Candidates shall declare their intention to run for a position on the Tribal Court or Court of Appeals. Provided that, the Election Board shall identify positions on the Court of Appeals requiring specific qualifications as identified in Section 3(b). Where no candidate, at the conclusion of any deadlines set by the Election Board, declares for a position on the Court of Appeals requiring specific qualifications, the Tribal Ogema shall appoint, and the Tribal Council shall approve a judge for that vacancy.*

(b) *Compensation. The Tribal Council shall have the power to establish the level of compensation for each judge; provided that the compensation due to each individual judge shall not be diminished during the term of his/her appointment.*

(c) *Tribal Judges shall be sworn in by the Speaker of the Tribal Council.*

Section 5 - Term of Office.

(a) *Except as provided for in Section 6 of this Article VI, the term of office for all Tribal Judges shall be six (6) years.*

(b) *Tribal Judges will continue in office until a successor is sworn in.*

(c) *There shall be no prohibition against continuous service.*

Section 7 - Vacancy. *A vacancy in any Judge Judicial position resulting from a Judge's death, resignation or removal shall be filled in the same manner as the original appointment as set forth in Article X, Section 4(b). The term of office for any Tribal Judge appointed elected under this Section 6 shall be six (6) years from the date of such appointment shall be for the remainder of the vacant term. Provided that, a term with less than 18 months remaining shall be filled for the remainder of the vacant term by appointment by the Tribal Ogema and Approval by the Tribal Council.*

Article X

Section 4 - Vacancies. *A vacancy in the office of the Tribal Ogema or on the Tribal Council an elected official resulting from death, resignation, forfeiture, removal, or recall shall be filled as follows:*

(a) If less than eighteen (18) months remain in the term of office ~~for the Tribal Ogema or Tribal Council member of an elected official~~, an individual shall be appointed to fill such vacant position at the next regular Tribal Council meeting, provided such appointment is approved by a majority vote of the Tribal Council. The Speaker of the Tribal Council shall nominate an individual to fill the vacancy in the Office of the Tribal Ogema. The Tribal Ogema shall nominate an individual to fill a vacancy on the Tribal Council, *Tribal Court, and Court of Appeals*.

(b) If more than eighteen months remain in the term of office ~~for the Tribal Ogema or a Tribal Council member of an elected official~~, a special election shall be held within three (3) months after the vacancy occurs. When calling a special election to the fill the vacancy of a Tribal Council member, the qualifications for candidates and registered voters entitled to participate shall be consistent with those applicable to the District in which such vacant seat exists *and in regards to the Court of Appeals consistent with the qualifications required in the vacant seat*.

(c) Any special election required to be held under this Section shall be conducted in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board.


(d) The ~~Tribal Ogema or Tribal Council member~~ *elected official* taking office under the provisions of this Section shall only serve until the term of office for the vacant office he/she is filling expires.

A vacancy occurring in the position of Speaker or Recorder of the Tribal Council shall be filled by majority voter of the Tribal Council.


CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 6 FOR, 2 AGAINST, 1 ABSTAINING, and 0 ABSENT, at a Regular Session of the Little River Band of Ottawa Indians Tribal Council held on August 14, 2002, at the Little River Band's Community Center in Manistee, Michigan, with a quorum being present for such vote.

Attest:



Janine M. Sam, Council Recorder



Stephen Parsons, Council Speaker

Distribution: Council Records
Tribal Ogema
Tribal Court
Legal Department