

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Amending Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures)

DEFEATED
RESOLUTION NO. 09-433

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WHEREAS, the Constitution of the Tohono O'odham Nation vests the Tohono O'odham Legislative Council with the power to set judicial compensation, appoint judges, approve Judicial Branch budgets, and enact laws governing certain other aspects of the Nation's courts (Constitution, Article V, Section 1, Article VI, Section 1 and Article VIII); and

WHEREAS, in December 2006 the Legislative Council passed a Courts and Procedures law but the enacting resolution was vetoed and the veto was not overridden (Resolution No. 06-818); and

WHEREAS, in December 2008 the Legislative Council repealed the Nation's conflicting and unconstitutional court laws and enacted Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures, which addresses the jurisdiction of the Nation's courts, qualifications and appointment of judges, the publication of court opinions and rules, and other matters pertaining to the Judicial Branch (Resolution No. 08-704, veto overridden by Resolution No. 08-713); and

WHEREAS, on December 30, 2008 the Judicial Branch filed a petition for injunctive and declaratory relief *In Re: Petition of the Judicial Branch*, Case No. 2008-0283AV and on December 31, 2008 obtained a emergency preliminary injunction preventing the Courts and Procedures law from taking effect; and

WHEREAS, on January 8, 2009 the Legislative Council directed the Legislative Attorney's Office, acting under the direction of the Judiciary Committee and Council officers to intervene in the case to defend the constitutionality of the Courts and Procedures law (Legislative Order 09-019); and

WHEREAS, the Legislative Council subsequently moved to intervene in the case, filed a counterclaim against the Judicial Branch alleging the administrative order governing the court's rules of procedure was unconstitutional, moved to modify the preliminary injunction to allow most of the Courts and Procedures law to take effect, and moved to set a hearing on the Council's motions; and

WHEREAS, on January 27, 2009 the Legislative Council was permitted to argue its motion to intervene and the preliminary injunction was modified January 28, 2009 as the Council had requested; and

WHEREAS, on April 15, 2009 the Judicial Branch rescinded the court administrative order that the Council alleged was unconstitutional and the Council subsequently withdrew its

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counterclaim against the rescinded order; and

WHEREAS, a settlement of *In Re: Petition of the Judicial Branch* has been proposed in which the Judicial Branch will dismiss its case and two subsections of the Courts and Procedures law will be amended; and

WHEREAS, it is in the Nation's best interest to amend Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures in accordance with the attached July 2009 Amendments, which are hereby incorporated by this reference.

NOW, THEREFORE, BE IT RESOLVED by the Tohono O'odham Legislative Council that Tohono O'odham Code Title 6, Chapter 1, Courts and Procedures is hereby amended in accordance with the July 2009 Amendments.

The foregoing Resolution was defeated by the Tohono O'odham Legislative Council on the 16TH Day of JULY, 2009 at a meeting at which a quorum was present with a vote of 1,078.35 FOR; 1,517.15 AGAINST; 01 NOT VOTING; and 04 ABSENT, pursuant to the powers vested in the Council by Article V, Section 1, Article VI, Section 1 and Article VIII of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Verlon M. Jose, Legislative Chairman

17 day of August, 2009

ATTEST:


Evonne Wilson, Legislative Secretary

16 day of July, 2009.

**DEFEATED
RESOLUTION NO. 09-433**

ACTION: AMENDING TOHONO O'ODHAM CODE TITLE 6, CHAPTER 1, COURTS AND PROCEDURES

MOVED: COUNCILWOMAN KIMBERLY LISTO

SECOND: COUNCILWOMAN ETHEL GARCIA

DATE: JULY 16, 2009

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
SIF OIDAK 198.7	1. WAVALENE ROMERO (Nicholas Jose)	99.35		X		
	2. MARY LOPEZ ()	99.35		X		X
SELLS 449.6	1. KIMBERLY LISTO ()	224.80	X			
	2. EVELYN B. JUAN MANUEL ()	224.80		X		
SCHUK TOAK 159.0	1. FRANCES B. CONDE (Fredrick Jose)	79.50	X			
	2. LINDA PARLEY (Agnes Joaquin)	79.50	X			
SAN XAVIER 204.7	1. FELICIA NUÑEZ ()	102.35		X		X
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	102.35		X		
SAN LUCY 187.1	1. LORRAINE EILER (Charlotte Cadavas)	93.55	X			
	2. GLORIA RAMIREZ ()	93.55		X		
PISINEMO 184.5	1. CHESTER ANTONE (Tony Murrietta)	92.25		X		
	2. EDWARD MANUEL (Gerald Fayuant)	92.25		X	X	
HICKIWAN 174.5	1. MICHELLE ORTEGA ()	87.25		X		X
	2. SANDRA ORTEGA ()	87.25		X		
GU VO 206.3	1. GRACE MANUEL ()	103.15		X		
	2. PAMELA ANGHILL (Angela Ortiz)	103.15		X		
GU ACHI 230.1	1. TIMOTHY L. JOAQUIN ()	115.05		X		
	2. CYNTHIA E. MANUEL ()	115.05		X		
CHUKUT KUK 277.0	1. ETHEL GARCIA (Sara Mae Williams)	138.50	X			
	2. VERLON M. JOSE ()	138.50	X			
BABOQUIVARI 324.0	1. FRANCES MIGUEL (Roberta Harvey)	162.0	X			
	2. FRANCES G. ANTONE ()	162.0	X			X
TOTAL		2,595.50	1,078.35	1,517.15	01	[04]