

Amendment to Tribal Constitution

Questions and Answers

1. Can the Tribal Legislature amend the Constitution?

Answer

No. The Tribal Legislature may propose an amendment to the Constitution if the proposed amendment is approved by 2/3 of the Tribal Legislature. The Constitution can only be amended pursuant to a vote of Tribal members.

2. Does the Tribal Legislature conduct the vote on amendments to the Constitution?

Answer

No. Article XIX of the Menominee Constitution allows for amendment of the Constitution only through an election conducted by the Secretary of the Interior pursuant to the Rules of the Department of Interior for such elections. A Secretarial election board consisting of a chairman appointed by the Bureau of Indian Affairs, and at least two (2) members appointed by the Tribal Legislature is responsible for conducting the election.

3. How will Tribal members be informed about the election?

Answer

The Secretarial election board will mail a Secretarial Election Notice Packet to all eligible voters at least 30, but not more than 60 days prior to the election. This Packet will contain registration material that must be filled out and returned in order for Tribal members to be eligible to vote in the election.

4. Has the Tribe ever amended the Constitution in the past?

Answer

Yes. The Constitution was amended in 1990, 1991, and 1999.

5. If a Tribal member does not submit the registration materials can he/she still vote on the amendment?

Answer

No. Only registered voters shall be allowed to vote.

6. Is there a minimum number of voters who must participate to make the election valid?

Answer

Yes. At least 30% of the registered voters must vote in the election.

7. Do 30% of all eligible voters of the Tribe need to vote, or only 30% of those who register?

Answer

30% of those who register. Therefore, if 1000 Tribal members return their registration materials, at least 300 must vote in the election for it to be valid.

8. Where does this 30% participation requirement come from?

Answer

Federal statute and the Rules of the Secretary of the Interior regarding secretarial elections (25 CFR Part 81) govern the election.

Article XIX of the Menominee Constitution states that the Secretary of Interior will hold an election on an amendment when requested by either:

- Tribal Legislature in the form of a Resolution passed with at least six affirmative votes; or
- Petition of at least 300 Tribal voters.

The BIA will review the proposed amendment and offer technical assistance. BIA shall also consult with the Solicitor's Office. BIA must notify the Tribe of the results of its review (and if the review finds that a provision is or may be contrary to applicable law notify the Tribe how the amendment is contrary to federal law, and how it may be revised so as to not be contrary to federal law).

The BIA will appoint a BIA official as Chairperson of the Secretarial Elections Board. The Tribe must appoint at least two (2) Tribal members to the Secretarial Elections Board. The Board shall assemble and mail a Secretarial Election Notice Packet to all Eligible Voters at least 30, but not more than 60 days prior to the election. This Packet will include registration material that must be filled out and returned in order for the Tribal member to be eligible to vote in the election. The Board shall maintain and post a list of registered voters for the election.

9. Has the Tribe always been called the “Menominee Indian Tribe of Wisconsin?”

Answer

The name used for the Tribe in treaties, federal statutes, court cases, and previous Tribal Constitutions has varied over time. As an example:

1831 Treaty	Menomonee Tribe of Indians
1832 Treaty	Menominee Nation
1836 Treaty	Menomonie nation
1848 Treaty	Menomonee tribe of Indians
1854 Treaty	Menomonee tribe of Indians
1856 Treaty	Menomonee tribe of Indians
1904 Constitution	Menominee Tribe of Indians of the State of Wisconsin
1908 Act of Congress ¹	Menominee tribe of Indians in Wisconsin

¹ May 29, 1908 (35 Stats. 444, c. 216, § 2

	Menominee tribe of indians
1942 Constitution	Menominee Indians of the Keshena Agency
	Menominee Tribe
	Menominee Indian Tribe
	Menominee Tribe of Indians
1954 Termination Act	Menominee Indian Tribe of Wisconsin
1973 Restoration Act	Menominee Indian Tribe of Wisconsin

10. How have Tribal members been made aware that Constitutional amendments were being considered by the Tribal Legislature?

Answer

The Tribal Legislature authorized a Task Force to review potential amendments on October 20, 2016. The task force held seventeen (17) publicly posted meetings between November 19, 2014 and December 28, 2017. The task force reported to tribal members at General Councils held on April 13, 2017 and July 31, 2017. The Tribal Legislature mailed a January 19, 2017 letter to all Tribal members and placed notice in the Tribal newspaper regarding the April General Council. The Tribal Legislature discussed amendments at publicly posted Tribal Legislature meetings on January 4, 2017; January 19, 2017; February 2, 2017; March 7, 2017; November 16, 2017; December 20, 2017; January 18, 2018; August 16, 2018; and August 29, 2018.

11. Have any other Tribes amended their Constitutions to remove the Secretary from the amendment process?

Answer - Over 50 Tribes have removed the Secretary from their Constitutional Amendment process.

Per the Bureau of Indian Affairs:

- Midwest Region
Ho-Chunk Nation
Oneida Nation (Wisconsin)
- Alaska Region
Ketchikan Indian Community
- Western Region
Gila River Indian Community
Salt River Indian Community
Pascua Yaqui Tribe
- Pacific Region
"A handful"

- Great Plains Region
Omaha
- Northwest Region
Of the 45 tribes in the Northwest Region, one-third to one-half removed the Secretarial election requirement
- Rocky Mountain Region
None of the tribes with IRA constitutions have yet removed the Secretary

12. Is the Secretarial Election process currently in the Constitution stronger than the amendment process being proposed?

Answer - No

The Secretarial Election currently requires that you register to vote, then the ballots are mailed to all those registered. Of those registered under the Secretarial process, only 30% have to vote for the amendment to be valid. As stated above, this basically means that if only 1000 members register, the election would be valid when 300 people vote and of those the majority vote to pass the constitutional amendments would be only 151 votes.

In the proposed change it will take at least 20% of ALL eligible voters to vote in order for a change to the Constitution to be passed. If that were to happen today it would require 1800 enrolled members to vote and that the majority vote would need to be 901 in favor of an amendment.

So it is very clear that the newly proposed amendment process will be much stronger and more protective than the current Secretarial Election process that is now part of the Constitution.