



2023 Annual Convention Grand Mound, Washington

RESOLUTION #2023 – 54

“TO SUPPORT AMENDMENTS TO FEDERAL PENSION LAWS TO PROVIDE PARITY BETWEEN INDIAN TRIBAL GOVERNMENTS AND STATE AND LOCAL GOVERNMENTS FOR CERTAIN FEDERAL TAX PURPOSES AND FOR OTHER PURPOSES.”

PREAMBLE

We, the members of the Affiliated Tribes of Northwest Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants rights secured under Indian Treaties and benefits to which we are entitled under the laws and constitution of the United States and several states, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the welfare of the Indian people, do hereby establish and submit the following resolution:

WHEREAS, the Affiliated Tribes of the Northwest Indians (ATNI) are representatives of and advocate for national, regional, and specific tribal concerns; and

WHEREAS, ATNI is a regional organization comprised of American Indians/Alaska Natives and tribes in the states of Washington, Idaho, Oregon, Montana, Nevada, Northern California, and Alaska; and

WHEREAS, the health, safety, welfare, education, economic and employment opportunity, and preservation of cultural and natural resources are primary goals and objectives of the ATNI; and

WHEREAS, in 2003 through 2006 many tribes and other organizations supported legislation to clarify that tribes are entitled to equal government status with states under the Internal Revenue Code (the “Code”) Section 414(d) and Section (3)(32) of the Employee Retirement Income Security Act of 1974 (“ERISA”); and

WHEREAS, all bills were considered by the House and Senate at the time called for equal status for tribes; none included an essential government function restriction or a commercial activity test; and

WHEREAS, in 2006, the tribal government equality language was incorporated into a larger bill known as Section 906 of the Pension Protection Act (the “PPA”); and

WHEREAS, the PPA was pulled from conference committee for a vote before the process was completed, and the draft that was in committee on the day of the PPA was brought to a vote included for the first time a limitation recognizing tribal government status only when tribal employees are performing “essential governmental functions” that are not “commercial in nature; and

WHEREAS, these committee changes to the PPA, which have since become law, received no discussion or debate, and were contrary to the intent of the equal status bills upon which the tribal pension provision was based; and

WHEREAS, there is a disparity between tribal governments and state and local governments, whereby tribes may not qualify for government status under the Federal pension laws even when raising funds for essential government functions, while state and local governments are free to engage in a much broader array of activities to raise public funds without jeopardizing their government status; and

WHEREAS, while Treasury engaged in consultation for many years on these matters, no consensus was reached on how to define “essential government functions” or “commercial” activities, and no final guidance or regulations have been issued; and

WHEREAS, tribes have been waiting for 17 years for guidance on the PPA provisions and the Department of Labor is conducting ERISA enforcement actions against tribes before any regulations have been developed; and

WHEREAS, proposed legislation is now pending in both the United States House of Representatives and Senate that will include amendments to the Internal Revenue Code of 1986 (“IRC”) and the Employee Retirement Income Security Act of 1974 (“ERISA”) to treat Indian tribal governments in the same manner as state and local governments for certain Federal tax purposes (“Tribal Parity Bills”); and

WHEREAS, the Treasury Tribal Advisory Committee (“TTAC”) is working to initiate consultation with the Departments of Treasury and Labor on these important tribal parity issues; and

WHEREAS, the TTAC is also working to secure an administrative moratorium to prevent enforcement actions under the PPA tribal provision until consultation occurs and regulations are published; now

THEREFORE, BE IT RESOLVED, that the ATNI member tribes request support for

the Tribal Pension Bill.

BE IT FURTHER RESOLVED, that ATNI supports the enactment of the Tribal Parity Bills and the amendment of IRC Section 414(d) and ERISA Section 3(32) to remove the essential governmental function and commercial activity restrictions and to create parity between tribes and other governments as originally intended; and

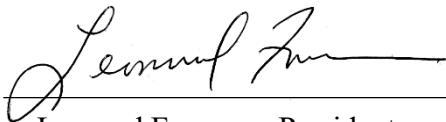
BE IT FURTHER RESOLVED, that ATNI supports the efforts of the TTAC to engage in consultations with the Departments of Treasury and Labor regarding parity for tribes under IRC Section 414(d) and ERISA Section 3(32), and to secure a moratorium against PPA enforcement actions prior to consultation and the publication of regulations; and

BE IT FURTHER RESOLVED, that ATNI supports amendments to Federal pension laws to provide parity between Indian tribal governments and state and local governments for certain Federal tax purposes and for other purposes; and

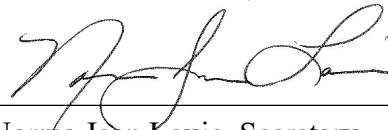
BE IT FINALLY RESOLVED, that ATNI calls upon the National Congress of American Indians to support this resolution and the Tribal Parity Bills.

CERTIFICATION

The foregoing resolution was adopted at the 2023 Annual Convention of the Affiliated Tribes of Northwest Indians, held at Great Wolf Lodge, Grand Mound, Washington on September 18-21-2023, with a quorum approving.



Leonard Forsman, President



Norma Jean Louie, Secretary