

RESOLUTION OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

WHEREAS, the Tribal Attorney has submitted for review of the Tribal Council a proposed ordinance which would adopt as tribal procedures and Tribal Law, the Worker's Compensation Laws for the State of Arizona with appropriate modifications in order to comply with the White Mountain Apache Tribal Constitution, the doctrine of Tribal Sovereign immunity and the recent Arizona Court of Appeals decision which held that the State Industrial Commission lacks jurisdiction over a claim filed by a tribal member employee against the Fort Apache Timber Company, and

WHEREAS, a copy of the proposed ordinance is attached to this resolution and incorporated by reference herein, and

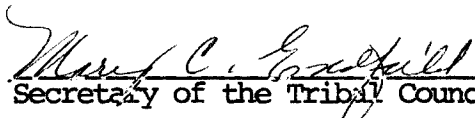
WHEREAS, the Tribal Council concludes that the proposed ordinance should be posted for a period of ten (10) days as required by the Tribal Constitution in order that the Council can receive public comments and suggestions in respect to the ordinance prior to final enactment.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby directs the Tribal Council Secretary to post in customary public places, the proposed ordinance of the White Mountain Apache Tribe which would adopt a Worker's Compensation Ordinance to be enforced in the White Mountain Apache Tribal Court.

BE IT FURTHER RESOLVED by the Tribal Council that it directs that this ordinance be posted for at least ten (10) days as required by the Tribal Constitution and that the text of the proposed ordinance be published in the Apache Scout.

The foregoing resolution was on June 20, 1985 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (i & q) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 27, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

  
Chairman of the Tribal Council

  
Secretary of the Tribal Council

Proposed Ordinance

PROPOSED  
ORDINANCE OF THE  
WHITE MOUNTAIN APACHE TRIBE OF THE  
FORT APACHE INDIAN RESERVATION

BE IT ENACTED by the Tribal Council of the White Mountain Apache Tribe that it hereby adopts as tribal procedure and tribal law the Worker's Compensation Laws of the State of Arizona as set forth in Title 23 of the Arizona Revised Statutes and the Rules of Procedure for Workmen's Compensation Hearings before the Industrial Commission of Arizona, as set forth this date and any amendments thereto, with the following exceptions:

1) All references in the Arizona laws and procedures to "local authorities", "State of Arizona", "Superior Court", "Industrial Commission" or any related state agencies shall mean the corresponding authorities, agencies, or departments of the tribal government of the White Mountain Apache Tribe:

a) The Judge of the Tribal Court is hereby authorized to request a visiting judge and an administrative law judge to preside at Worker's Compensation hearings, if it is determined by the Tribal Court Judge to be necessary.

2) Any tribal laws or procedure, duly authorized by the Tribal Council of the White Mountain Apache Tribe, at this date or hereafter passed, which are inconsistent with the Worker's Compensation Laws or Rules of Procedure of the State of Arizona shall be deemed as amendments to the laws and procedures herein adopted.

3) Nothing in this Ordinance shall prohibit the Tribal Council from duly enacting worker's compensation laws or procedures in addition to or inconsistent with those passed by the State of Arizona and herein adopted as tribal law and procedure.

BE IT FURTHER ENACTED that the enactment of this Ordinance does not constitute a waiver of the sovereign immunity of the White Mountain Apache Tribe; provided, however, that the defense of sovereign immunity shall not be raised by the Tribe's Worker's Compensation carrier to the extent of the carrier's statutory liability.

BE IT FURTHER ENACTED that upon the filing of a petition or complaint contesting claim status, the Tribal Court shall forward a copy of the petition or complaint to the Tribe's Workmen's Compensation carrier within five (5) days of the date of filing.

BE IT FURTHER ENACTED that the interpretation of the Worker's Compensation Laws and Rules of Procedure for Workmen's Compensation Hearings, as herein adopted, shall be made, to the best possible extent, consistent with tribal governmental structure and organization and Arizona State Court decisions.