CJA-06-10

RESOLUTION OF THE
NAVAJO NATION COUNCIL

21st NAVAJO NATION COUNCIL - Fourth Year, 2010

AN ACT

RELATING TO GOVERNMENT SERVICES AND INTERGOVERNMENTAL RELATIONS; ENACTING THE OFFICE OF LEGISLATIVE COUNSEL AMENDMENTS ACT OF 2010; AMENDING TITLE 1 AND 2 OF THE NAVAJO NATION CODE, 1 N.N.C. § 555, 2 N.N.C. §§ 185, 691, 694, 873, 877, 908, 934, AND 1964

BE IT ENACTED:

Section One, Enactment of the office of Legislative Counsel Amendments Act of 2010.

The Navajo Nation Council hereby enacts the Office of Legislative Counsel Amendments Act of 2010.

Section Two. Findings.

A. The Navajo Nation hereby finds that the Office of Legislative Counsel was established in 1989 to provide the Navajo Nation Council and other Legislative Branch entities with legal advice and legislative assistance, independent from the Office of the Attorney General.

B. The Navajo Nation further finds that Office of Legislative Counsel has since 1989 demonstrated its capacity to provide legal representation to the Navajo Nation Council and other Legislative Branch entities.

C. The Navajo Nation finds that the Office of Legislative Counsel should be provided additional authority to address the need for provision of legal services to the Navajo Nation Council, .standing committees, commissions and boards of the Navajo Nation Council, offices and programs of the Legislative Branch, independent of the Department of Justice.

D. The Navajo Nation determines that these amendments are in the best interests of the Navajo Nation and Navajo People.

Section three. Amendments of Title 1 of the Navajo Nation Code

The Navajo Nation Council hereby amends Title 1 of the Navajo Nation Code, 1 N.N.C. §§ 555, as follows:

NAVAJO NATION CODE ANNOTATED
TITLE 1. GENERAL PROVISIONS
CHAPTER 5. NAVAJO NATION
SUBCHAPTER 2. SOVEREIGN IMMUNITY ACT

§ 555. Procedure with respect to actions authorized by this subchapter

A. Any person or party desiring to institute suit against the Navajo Nation or any officer, employee or agent of the Navajo Nation as authorized by this Subchapter shall, as a jurisdictional condition precedent provide notice to the President of the Navajo Nation, the Chief Legislative Counsel, and of the Attorney General of the Navajo Nation, as provided herein.

1. Such notices shall be sent by registered mail, addressed to the main administrative offices of the President of the Navajo Nation, the Chief Legislative Counsel, and of the Attorney General of the Navajo Nation, return receipts requested. The time of such notice shall commence to run only from the date following actual delivery of both notices as evidenced upon such receipts, and filed together with such notices with the court in which such action is subsequently to be commenced. The President of the Navajo Nation, the Chief Legislative Counsel, and the Attorney General of the Navajo Nation shall, ensure the availability, during all regular office hours, of office staff personnel duly authorized to accept and receipt for delivery of such notices provided herein and their receipt thereof shall not waive the assertion of any appropriate defense pertaining to the validity of such notice or service.

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C. Any person or party filing a complaint against the Navajo Nation or any officer, employee or agent of the Navajo Nation shall serve by registered mail, return receipt requested, a copy of this complaint together with summons duly issued, upon the President of the Navajo Nation, the Chief Legislative

Counsel, and the Attorney General of the Navajo Nation. Service of summons and complaint against any officer, employee, or agent of the Navajo Nation shall be made by any means authorized under the rules of the courts of the Navajo Nation, provided that the time for response thereto shall be as provided herein and service upon such parties shall not be affected by such required service upon the President of the Navajo Nation, Chief Legislative Counsel, and the Attorney General of the Navajo Nation.

D. In any action in which any claim is asserted against the Navajo Nation or any public entity thereof, upon written demand of the Navajo Nation Department of Justice, or the Office of Legislative Counsel, made at or before the time of answering, served upon the opposing party and filed with the court where the action is pending, the place of trial of such action shall be changed to Window Rock, Navajo Nation (Arizona).

Section Four. Amendment of Title 2 of the Navajo Nation Code

The Navajo Nation Council hereby amends Title 2 of the Navajo Nation Code, as follows:

NAVAJO NATION CODE ANNOTATED
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 3. LEGISLATIVE BRANCH
SUBCHAPTER 3. NAVAJO NATION COUNCIL COMMITTEES—GENERALLY

§ 185. Powers

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F. Subpoenas and orders may be enforced by the courts of the Navajo Nation by means of civil enforcement of committee action. A committee, by the ~~Attorney General,~~ Office of Legislative Counsel, may apply to the District Court of the Window Rock Judicial District for an order to enforce any committee subpoena.

NAVAJO NATION CODE ANNOTATED
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 3. LEGISLATIVE BRANCH
SUBCHAPTER 11. BOARDS AND COMMISSIONS
ARTICLE 3. NAVAJO BOARD OF ELECTION SUPERVISORS

§ 873. Powers and duties

A. General. The Board shall have all powers necessary and proper to carry out the purposes set forth in the Election Code.

B. Enumerated Powers. The Board is hereby authorized and directed:

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15. To maintain such staff and consultants ~~including legal counsel~~ as may be provided for in the annual Navajo Nation budget of the Board.

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19. To bring action as deemed necessary and proper for the enforcement of the Election Code through the ~~Attorney General~~ Office of Legislative Counsel and report violations/offenses to the Ethics and Rules Committee where necessary.

§877. Director, staff; power and duties

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B. Powers and Duties of staff. The staff shall have all powers delegated by the Board and Election Administration Office Director and necessary and proper in carrying out the purposes of the Election Code as authorized by the Board. The duties include the following:

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14. Assist the board in functions as follows:

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k. Enforce the Election Code by reporting violations of the Election Code to the ~~Attorney General or~~ Office of Legislative Counsel and Ethics Office.

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NAVAJO NATION CODE ANNOTATED
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 3. LEGISLATIVE BRANCH
SUBCHAPTER 11. BOARDS AND COMMISSIONS
ARTICLES 5. BLACK MESA REVIEW BOARD

§ 908 Administration

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D. All notices required to be sent pursuant to this Plan of Operation shall, in addition to being sent to the Board members, the claimant or his/her representative and PWCC, also be sent to the secretaries of the Kayenta Chapter, Forest Lake Chapter, Black Mesa Chapter, Shonto Chapter, Chilchinbeto Chapter, the Office of the Speaker, the Office of Legislative Counsel, the Attorney General, and the Office of the President of the Navajo Nation.

NAVAJO NATION CODE ANNOTATED
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 3. LEGISLATIVE BRANCH
SUBCHAPTER 11. BOARDS AND COMMISSIONS
ARTICLE 7. NAVAJO NATION INSURANCE COMMISSION

§ 961. Purpose

The purpose of the Office of Legislative counsel is to provide legal advice, legal representation and legislative services to the Navajo Nation Council, standing committees, commissions, and boards of the Navajo Nation Council, offices and programs of the Legislative Branch of the Navajo Nation, independent of the Department of Justice.

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§ 964. Authorities, duties and responsibilities

A. General authorities, duties and responsibilities of the Office of Legislative Counsel shall include:

1. Report and be responsible to the Navajo Nation Council and to the Intergovernmental Relations Committee of the Navajo Nation Council.

2. Coordinate with the Department of Justice and other attorneys providing legal services to the Navajo Nation the work of the Legislative Counsel to avoid duplication of work and conflicting legal advice and opinion.

3. Develop an annual work plan and budget for the office for consideration by the Navajo Nation Council during the regular annual budget process.

4. To advise the Navajo Nation Council on legislative matters pending before the Navajo Nation Council.

5. To advise standing committees, commissions, and boards of the Navajo Nation Council on legislative matters pending before the respective committees, commissions or boards.

6. To assist members of the Navajo Nation Council in preparing proposed resolutions for consideration by Chapters, committees, commissions, boards or the Navajo Nation Council.

7. To provide legal representation to the Navajo Nation Council, standing committees, commissions and boards of the Navajo Nation Council, offices and programs of the Legislative Branch, independent of the Department of Justice, through Office of Legislative Counsel and outside counsel contracted by the Office of Legislative Counsel, to represent the legal interests of the Legislative Branch of the Navajo Nation.

8. Perform all duties and responsibilities in accordance with the highest standards of legal ethics.

B. Codification of Navajo Nation Laws, Rules and Regulations:

1. The Legislative Counsel shall periodically review all legislation of the Navajo Nation Council and standing Committees of the Navajo Nation Council to determine codification within the Navajo Nation Code.

2. The Legislative Counsel shall periodically prepare and publish new, revised and updated ~~hard-bound~~ versions of the Navajo Nation Code, in hard-bound and electronic formats.

3. The Legislative Counsel shall periodically review and evaluate the Navajo Nation Code and recommend appropriate ~~actions~~ legislation to repeal, supersede, clarify and generally update provisions of the Navajo Nation Code for consideration by the appropriate standing committees of the Navajo Nation Council.

C. Opinions of the Chief Legislative Counsel

1. Any Legislative Branch entity of the Navajo Nation government, or any elected official of the Legislative Branch may request the Chief Legislative Counsel to issue an opinion concerning any question of law relating to their respective Legislative Branch entity or offices. No adverse action may be taken by the Navajo Nation government against any official or employee of the Legislative Branch for conduct taken in reasonable reliance upon the advice given in such an opinion.

2. The Chief Legislative Counsel shall, at least annually, publish the official Opinions of the Chief Legislative Counsel. The Chief Legislative Counsel shall provide copies of all such opinions to the President, the Speaker, the Chief Justice, and each delegate of the Navajo Nation Council.

NAVAJO NATION CODE ANNOTATED
TITLE 2. NAVAJO NATION GOVERNMENT
CHAPTER 5. EXECUTIVE BRANCH
SUBCHAPTER 39. DEPARTMENT OF JUSTICE
ARTICLE 1. GENERALLY

§ 1964. Attorney General; Chief Legal Officer

A. the Attorney General is the Chief Legal Officer of the Navajo Nation and, unless otherwise provided by Navajo Nation law, shall have charge of the Department of Justice and of all legal matters in which the Navajo Nation government has an interest.

B. The Attorney General shall render legal services to the Navajo Nation government, including its Chapters, branches, and entities, subject to available resources, as may be required.

C. Except as otherwise provide by Navajo Nation law, no ~~No~~ division, program, enterprise, or other entity of the Navajo Nation government shall retain or employ legal counsel except as may be approved by the Attorney General. The Executive and Judicial branches shall not retain or employ legal counsel for external litigation except as may be approved by the Attorney General. The Office of Legislative Counsel may retain or employ legal counsel for provision of legal services to the Navajo Nation Council, standing committees, commissions and boards of the Navajo Nation Council, offices and programs of the Legislative Branch, to represent the interests of the Legislative Branch independent of the Department of Justice. Navajo Nation Chapters may employ their own counsel, subject to available funds, under the terms and conditions approved by the Chapter membership.

D. The Attorney General shall adopt reasonable rules and regulations to allow for the hiring of independent and additional outside counsel as needed, as provided in this subpart.

E. The Attorney General may retain private counsel to handle any particular matter or types of matters as he deems appropriate, subject to the availability of funds appropriated for such purposes. Such counsel may be retained to represent the Navajo Nation government in distant forums, to provide specialized legal expertise not available from within the Department of Justice, and to respond to exceptional demand for legal services.

F. Except as otherwise provided by Navajo Nation law, the ~~The~~ Attorney General shall defend and initiate all actions, including appeals, in which the Navajo Nation is a party, including any action brought in the name of Navajo Nation government officials for conduct arising out of their official duties, and may compromise or settle any action or claim by or against the Navajo Nation government. Before concluding any such compromise or settlement which involves a particular Executive or Judicial Branch ~~branch,~~ division, department or program, the Attorney General shall consult with such branch, division, department, or program. The Attorney General shall not compromise or settle any matter to which the Navajo Nation Council , standing committees, commissions, and boards of the Navajo Nation Council, offices and programs of the Legislative Branch, are parties unless compromise or settlement is duly approved by the particular Legislative Branch parties.

Where no branch or division is named, or otherwise particularly involved, the Attorney General shall consult with the President and the Speaker of the Navajo Nation Council prior to concluding any such compromise or settlement.

G. All communications between elected tribal officials, officers, employees, or agents of the Navajo Nation government and its attorneys shall be protected by the attorney-client privilege and shall not be admissible to discoverable in any judicial or administrative proceeding. No waiver of the attorney-client privilege shall be effective against the Navajo Nation government without the express approval of the Attorney General, or the Chief Legislative Counsel for matters in which the Navajo Nation Council, standing committees, commissions and boards of the Navajo Nation Council, offices and programs of the Legislative Branch, are parties. The Attorney General, or Chief Legislative Counsel, in matters affecting Legislative Branch parties, is authorized to waive the attorney-client privilege when such waiver will advance the overall legal interests of the Navajo Nation government.

H. If the Attorney General determines that he/she is disqualified from providing legal representation or legal services on behalf of any entity of the Navajo Nation government in relation to any matter, the Attorney General shall give

written notification to the entity affected. If the entity has received such notification from the Attorney General, the entity is authorized to make expenditures, subject to available appropriations, to employ attorneys to provide the representation or services.

I. The Attorney General, or the Chief Legislative Counsel, in matters involving Legislative Branch parties or interests, in his or her discretion is authorized to represent an officer or employee of the Navajo Nation against whom a civil action is brought in his or her individual capacity until such time as it is established as a matter of law that the alleged activity or events which form the basis of the complaint were not performed, or not directed to be performed, within the scope of course of the officer's or employee's duty or employment.

Section Six. Effective Date

The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).

Section Seven. Codification

The provisions of this Act which amend sections of the Navajo Nation Code shall be codified by the Office of Legislative Counsel.

Section Eight. Savings Clause

Should any provisions of this Act be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the Navajo Nation Supreme Court, or any other court of competent jurisdiction, those portions of this Act which are not determined invalid shall remain the law of the Navajo Nation.

CJA-06-10

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 67 in favor and 6 opposed, this 28th day of January, 2010.

Lawrence T. Morgan, Speaker
Navajo Nation Council

03 Feb 10
Date

Motion: Lawrence Platero
Second: Roy Dempsey

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby sign into law the foregoing legislation, pursuant to 2 N.N.C. §1005 (C)(10), on this _____ day of _____ 2010.

_____
Dr. Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (11), this _____ day of FEB 13 2010 2010 for the reason(s) expressed in the attached letter to the Speaker.

_____
Dr. Joe Shirley, Jr., President
Navajo Nation

21st Navajo Nation Council - Third Year

Mr. Speaker

The **GOVERNMENT SERVICE COMMITTEE** to whom has been assigned

NAVAJO LEGISLATIVE BILL # 0010-10

RELATING TO GOVERNMENT SERVICES AND INTERGOVERNMENTAL RELATIONS; ENACTING THE OFFICE OF LEGISLATIVE COUNSEL AMENDMENTS ACT OF 2010; AMENDING TITLES 1 AND 2 OF THE NAVAJO NATION CODE, 1 N.N.C. §§ 185, 691,694,873,877, 908, 934, AND 1964

Has had it under consideration and reports the same with the following recommendation that it **PASS** with no amendments.

And therefore referred to **INTERGOVERNMENTAL RELATIONS COMMITEE** respectfully submitted

Ervin M. Keeswood, Chairman
GOVERNMENT SERVICESCOMMITTEE

GSC SUMMARY:
Date: January 6, 2010

Adopted :
Mike Martinez, Legislative Advisor

Main Motion: Charles Damon 2nd Leonard Teller Vote 4 – 1

INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT
21ST Navajo Nation Council – Fourth Year, 2010

INTRODUCED BY

Katherine Benally

LEGISLATION NO. 0010-10

An Act Relating to Government Services and Intergovernmental Relations; Enacting the Office of Legislative Counsel Amendments Act of 2010; Amending Titles 1 and 2 of the Navajo Nation Code, 1 N.N.C. § 555, 2 N.N.C. §§ 185, 691, 694, 873, 877, 908, 934, and 1964

1. On January 7, 2010, the Intergovernmental Relations Committee conducted a special meeting, at which time it reviewed the above referenced proposed resolution.

2. The Intergovernmental Relations Committee **APPROVES** this proposed resolution and refers it to **ETHICS & RULES COMMITTEE.**

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Intergovernmental Relations Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 6 in favor and 5 opposed, this 7th day of January, 2010.

Kee Allen Begay, Jr., Chairman Pro Tem
Intergovernmental Relations Committee

Motion: Andy Ayze
Second: Larry Noble

21st Navajo Nation Council

Fourth Year 2010

Mr. Speaker,

The **ETHIC AND RULES COMMITTEE**, to whom has been assigned

NAVAJO LEGISLATIVE BILL 0010-10

Has had it under consideration and reports the same with a **DO PASS with NO AMENDMENTS :**

And therefore referred to the **21ST NAVAJO NATION COUNCIL.**

Respectfully submitted,

Francis Redhouse, Chairperson

Adopted: _____
Advisor

Not Adopted: _____
Advisor

Date: **January 08, 2010**

The vote was 7 in favor and 0 opposed
Excused:
Absent:

The Legislative Branch
The Navajo Nation

Lawrence T. Morgan
Speaker of the Navajo Nation Council

21st Navajo Nation Council - Fourth Year

Mr. Speaker

The **GOVERNMENT SERVICES COMMITTEE** to whom has been assigned

NAVAJO NATION LEGISLATIVE BILL #0081-10

Relating Government Services and Intergovernmental Relations; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CJA-06-10

Has had it under consideration and reports the same with the following recommendation that it **DO PASS** with no amendments.

And therefore referred to **INTERGOVERNMENTAL RELATIONS COMMITTEE** respectfully submitted

Ervin M. Keeswood, Sr, Chairman
GOVERNMENT SERVICES COMMITTEE

GSC SUMMARY:
Date: February 19th, 2010

Adopted :
Mike Martinez, Legislative Advisor

Main Motion: Roy Laughter 2nd Leonard Teller Vote 5 - 1

INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT
21ST Navajo Nation Council – Fourth Year, 2010

INTRODUCED BY

Katherine Benally

LEGISLATION NO. 0081-10

An Action Relating to Government Services and Intergovernmental Relations; Overriding the Navajo Nation President's Veto of Navajo Nation Council Resolution CJA-06-10

1. On February 22, 2010, the Intergovernmental Relations Committee conducted a special meeting, at which time it reviewed the above referenced proposed resolution.

2. The Intergovernmental Relations Committee **APPROVES** this proposed resolution and refers it to **ETHICS & RULES COMMITTEE.**

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Intergovernmental Relations Committee of the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 8 in favor and 0 opposed, this 22nd day of February, 2010.

Lawrence T. Morgan, Chairman
Intergovernmental Relations Committee

Motion: Lawrence Platero
Second: George Arthur

21st Navajo Nation Council

Fourth Year 2010

Mr. Speaker,

The **ETHIC AND RULES COMMITTEE**, to whom has been assigned

NAVAJO LEGISLATIVE BILL 0081-10

Has had it under consideration and reports the same with a **DO PASS** with **NO AMENDMENTS.**

And therefore referred to the **21ST NAVAJO NATION COUNCIL.**

Respectfully submitted,

Francis Redhouse, Chairperson

Adopted: _____
Advisor

Not Adopted: _____
Advisor

Date: **February 22, 2010**

The vote was 7 in favor and 0 opposed
Excused:
Absent: