



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
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Legislation Details (With Text)

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Title:	AN ACT ESTABLISHING TITLE 73 CHAPTER 2 OF THE CHEROKEE NATION CODE				
Sponsors:	Mike Shambaugh, Dora Patzkowski, Victoria Vazquez, Johnny Kidwell, Kevin Easley Jr., Danny Callison, Joe Deere, Candessa Tehee, Julia Coates				
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3/11/2024	2	TRIBAL COUNCIL	Approved	Pass
2/29/2024	1	RULES COMMITTEE	Approved and Forwarded to Council	Pass

AN ACT ESTABLISHING TITLE 73 CHAPTER 2 OF THE CHEROKEE NATION CODE

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This act shall be known as the "Constitution Convention Commission Act of 2024" and codified at Title 73, Chapter 2, as an amendment to the Cherokee Nation Code.

Section 2. Purpose

The purpose of this Act is to establish a Constitution Convention Commission pursuant to Article XV, Section 9 of the Cherokee Nation Constitution.

Section 3. Legislative History

LA-32-00

LA-10-98

Section 4. Substantive Provisions

The provisions of Chapter 2 of Title 73 are hereby repealed in their entirety and replaced as follows:

§101. Purpose

This Act is adopted for the purpose of establishing a Constitution Convention Commission to oversee the conduct of a constitutional convention, should the question of whether such a convention should be held is affirmed by a vote of the Cherokee people in the next regular or special election.

§102. Authority

This law is enacted pursuant to Article XV, Section 9 of the Cherokee Nation Constitution.

§103. Definitions

For purposes of this Chapter, the following terms shall be defined as follows:

1. "Campaign" means and includes all activities for or against the election of a candidate to a specific office within Cherokee Nation by a Constitution Convention Commissioner during his or her appointed term.
2. "Citizen of Cherokee Nation" means a person enrolled as a citizen of Cherokee Nation.
3. "Constitution Commission" means the Cherokee Nation Constitution Convention Commission established pursuant to this statute.
4. "Council" means the Council of the Cherokee Nation.
5. "Council Member" means a member of the Council of the Cherokee Nation.
6. "Deputy Principal Chief" means the Deputy Principal Chief of Cherokee Nation.
7. "Elected Official" means the duly elected Principal Chief, Deputy Principal Chief, or member of the Council of the Cherokee Nation currently holding an elected office.
8. "Principal Chief" means the Principal Chief of the Cherokee Nation.

9. "Supreme Court" means the Supreme Court of the Cherokee Nation.

§104. Cherokee Nation Constitution Convention Commission

- A. Constitution Convention Commission: Establishment and Appointment: The Commission shall be called the Cherokee Nation Constitution Convention Commission. The Constitution Convention Commission shall be composed of two appointees of each branch of the tribal government; two (2) from the Executive, the Chief and Deputy Chief concurring; two (2) from the Supreme Court, by majority vote of approval of the Justices; and two (2) from the Tribal Council, by majority vote of approval of the Council members. The six (6) appointed members shall select a seventh (7) member. The Constitution Convention Commission shall have the sole responsibility and explicit authority for the conduct of the Constitution Convention, including activities described in Subsection (D) of this Section, and shall be an independent commission in the performance of its statutory authority. In the performance of that authority it shall not be subject to direction or supervision by the Executive, Legislative or Judicial Branch of the Cherokee Nation government.
- B. Term: The Constitution Convention Commission shall be appointed and take their oath of office within sixty (60) days of this Act becoming effective. Each Commission member shall serve a term beginning on the day of appointment and ending six (6) months after any election on proposed amendments, alterations, revisions or a new constitution, or at the discretion of the Commission. In case of vacancy on the Commission, the Commission shall make a new appointment. A person appointed to fill a vacancy on the Constitution Convention Commission shall serve the remaining term of the vacant position.
- C. Qualifications: The Commissioners shall be citizens of the Cherokee Nation. Elected Officials of the Cherokee Nation are specifically disqualified from serving on the Commission or any subcommittees created by the Commission.
- D. Duties: The Constitution Convention Commission shall organize and proceed to carry out the process broadly outlined in this statute. That process will ensure citizen participation, on an equal footing, with all others. The Commission shall develop an effective and efficient method of communication with citizens that will: (1) provide an objective assessment of the current governmental structure; (2) conduct a series of public hearings that provide citizens an opportunity to provide both written and oral testimony before the Commission to express their views on proposed constitutional amendments, alterations, revisions or a new constitution; (3) provide a regular progress report to the citizens and to each branch of the government; (4) upon completion of public review and comment, prepare an interim report to the Cherokee people detailing, if any, proposed amendments, alterations, revisions or a new constitution; and, (5) develop and present, if any, final proposed amendments, alterations, revisions, or new constitution to a referendum vote by the citizens of the Cherokee Nation.

The Constitution Convention Commission shall also engage in the following activities in the performance of its responsibilities:

1. Elect a Chairperson, Vice-chairperson, and a secretary/treasurer from its own membership;
 2. Publish a schedule for its regular meetings, establish an agenda for each meeting in accordance with Roberts Rules of Order, and approve and maintain correct and accurate minutes of its deliberations;
 3. Develop rules and regulations necessary to conduct the public hearings described above, provided that they shall publish and transmit such rules and regulations;
 4. A minimum of three (3) members shall oversee the conduct of each of the public hearings at which citizens of the Cherokee Nation will be permitted to provide written and oral testimony on their suggestions for proposed amendments, alterations revisions, or new constitution;
 5. Evaluate and determine the number and location of public hearings;
 6. Establish a process to record and maintain a permanent record of comments taken from the citizens at the public hearings; and
 7. Engage in any other activities necessary for the performance of its responsibilities as required by provisions of this Act.
- E. Meetings: The Constitution Convention Commission shall conduct business in open meetings at a location provided by the Cherokee Nation or other location designated by the Commission, provided that the Commission may go into Executive Session for purposes of discussing policy and procedural matters regarding the organization of the Commission or any issues regarding personnel matters. No vote shall be taken in Executive Session, and all votes shall be public and recorded in the official minutes of the Commission. Meeting minutes shall be prepared by the secretary/treasurer setting forth the Commission-members present, a summary of items discussed and action taken by vote of the Commission, and said minutes shall be subject to approval of the Commission. Public notice shall be given of all meetings no less than ten (10) calendar days prior to the meeting date. Special meetings may be called on the written concurrence of the chairperson, vice chairperson, and a secretary/treasurer with proper notice given.
- F. Quorum: Five (5) of the seven (7) Commission members shall constitute a quorum for all meetings held by the Commission.
- G. Voting: Each member of the Commission may cast one vote each on any given item taken to vote. A simple majority of votes cast by attending members will decide the issue. In the event of a tie, the vote shall be retaken with the chairperson abstaining his/her vote.
- H. Compensation: The Commission may receive stipends, or other compensation, and reasonable travel

related benefits in accordance with the budgetary process of the Cherokee Nation.

- I. Immunity: All Commissioners serving on the Constitution Convention Commission shall be afforded qualified immunity from civil prosecution in the courts of the Cherokee Nation for acts taken in performance of their statutory authority.
- J. Removal of Commission Member: Any Constitution Convention Commission member may be removed by a 5/7 vote of the Commission members under the following process:
1. Grounds for removal:
 - a. Campaigning for any candidate for elected office within the Cherokee Nation.
 - b. Interfering with or attempting to interfere with the orderly conduct of any public hearing on the constitution.
 - c. Committing malfeasance, misfeasance or nonfeasance of duty while in office. For purposes of removal, consecutively failing to attend three or more called meetings of the Commission, without just cause, will constitute nonfeasance of office.
 2. A Commissioner removed by the Commission may seek a de novo appeal before the Cherokee Nation Supreme Court. A petition for removal of a Commissioner may be brought by a two-thirds (2/3) majority vote of the Tribal Council members, or a five-sevenths (5/7) majority vote of the Commission.

Section 5. Provisions as cumulative

The provisions of this act shall be cumulative to existing law.

Section 6. Severability

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Section 7. Effective Date

This Act shall be effective upon the Cherokee Nation Election Commission's certification of a referendum vote of the Cherokee people affirming the question of whether a constitutional convention should be held.

Section 8. Self-Help Contributions

To the extent that this Act involves programs or services to citizens of the Nation or others, self-help contributions shall be required, unless specifically prohibited by the funding agency, or a waiver is granted due to physical or mental incapacity of the participant to contribute.