

Committee: Rules

Date: 11-29-11 Committee Date: 12-13-11

Author: T. Hembree

Sponsor: T. Glory-Jordan, D. Walkingstick, C. Snell, F. Hargis, F. Fishinghawk,
D. Thornton, D. Garvin, J. Fullbright, C. Cowan Watts, L. Keener,
B. Anglen, M. Frailey, D. Lay, C. Hoskin Jr., J. Baker, J. Coates

An Act

Legislative Act 01-12

A LEGISLATIVE ACT AMENDING LEGISLATIVE ACT 13-07 "CHEROKEE NATION ADMINISTRATIVE PROCEDURES ACT" AND LEGISLATIVE ACT 12-96 "THE EMPLOYEE ADMINISTRATIVE PROCEDURES ACT" AND ADDING NEW SECTION

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification:

This Legislative Act may be cited as "The Cherokee Nation Administrative Procedure Act Amendment of 2011" and codified under Title _____ Section _____ of the Cherokee Nation Code Annotated ("CNCA").

Section 2. Purpose:

The purpose for this enactment is to allow parties who have matters before the administrative law judges of the Cherokee Nation, pursuant to this Act to request that decisions be heard *en banc* by all administrative judges.

Section 3. Legislative History:

LA 13-07
LA 12-96
LA 17-05
LA 03-10

Article VI, Section 7 of the Cherokee Nation Constitution: The Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation, which shall not be contrary to the provisions of this Constitution. The style of all bills shall be: "Be It Enacted By The Cherokee Nation". The style of all resolutions shall be "Be It Resolved By The Cherokee Nation".

Section 4. Definitions:

For purposes of this Title:

en banc: means all currently appointed and confirmed presiding Administrative Law Judges.

Section 5. Substantive Provisions:

LA 13-07 Section 402

(i) Any party to agency proceedings or any party to judicial review or civil enforcement proceedings shall have a matter decided by administrative judges en banc.

LA 12-96 Section 1009

Any party to an appeal shall have a matter decided by Employee Appeal Board members en banc. ~~Each appeal shall be heard by one member of the Employee Appeals Board acting as a hearing officer. Selection and assignment of board members to cases shall be conducted pursuant to rules established by the Board.~~

Section 6. Provisions as cumulative:

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

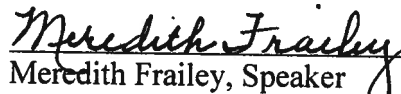
Section 7. Severability:

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.

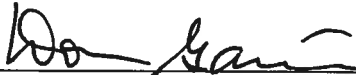
Section 8. Emergency Declared:

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this act shall take effect and be in full force after its passage and approval.

Enacted by the Council of the Cherokee Nation on the 16th day of January, 2012.



Meredith Frailey, Speaker
Council of the Cherokee Nation

ATTEST:




Don Garvin, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 18th day of January, 2012.



Bill John Baker, Principal Chief
Cherokee Nation

ATTEST:



Charles Head, Chief of Staff
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Vacant Seat (District 1)	<u>n/a</u>	Dick Lay	<u>Yea</u>
Tina Glory Jordan	<u>Yea</u>	Meredith A. Frailey	<u>Yea</u>
David Walkingstick	<u>Yea</u>	Chuck Hoskin, Jr.	<u>Yea</u>
Frankie Hargis	<u>Yea</u>	Buel Anglen	<u>Yea</u>
Jodie Fishinghawk	<u>Yea</u>	Cara Cowan Watts	<u>Yea</u>
Curtis Snell	<u>Yea</u>	Lee Keener, Jr.	<u>Yea</u>
Don Garvin	<u>Yea</u>	Julia Coates	<u>Yea</u>
Janelle Lattimore Fullbright	<u>Yea</u>	Jack Baker	<u>Yea</u>
David W. Thornton, Sr.	<u>Yea</u>		