



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: 20-080, Version: 1

AN ACT AMENDING THE CHEROKEE NATION ETHICS ACT OF 2012, CODIFIED AS TITLE 28 OF THE CHEROKEE NATION CODE ANNOTATED, ADDING SECTION 22 MAKING IT UNLAWFUL AND REQUIRING THE ABSTENTION F ANY COUNCIL MEMBER(S) FROM VOTING ON THE CONFIRMATION OF ANY APPOINTED OFFICIAL THAT DONATED TO THE CAMPAIGN OF THAT COUNCIL MEMBER

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This Act codifies certain amendments to Title 28 adding § 22 "Donations for Appointments and/or Employment Unlawful" under Chapter 2.

Section 2. Findings

The Council of the Cherokee Nation finds that an emergency exists within the Cherokee Nation and that it is necessary and proper to prohibit Council Members voting to confirm the appointments of officials that donated to their campaigns to prevent the appearance of impropriety.

Section 3. Purpose

The purpose of this Act is to amend Title 28 of the Cherokee Nation Code Annotated adding Section 22 making it unlawful and requiring the abstention of any Council Member(s) from voting on the confirmation of any appointed official that donated to the campaign of that Council Member.

Section 4. Legislative History

Article VI, Section 7 of the Cherokee Nation Constitution states that the Council shall have the power to establish laws which it shall deem necessary and proper for the good of the Nation.

L.A. 40-12 Eff. October 16, 2012

Section 5. Substantive Provisions

§ 22. Donations for Appointments and/or Employment Unlawful

A. Donations for Appointment. It shall be unlawful for any elected official to appoint or vote for the appointment or employment of any person that donated to the campaign of that elected official to any position within the Nation and/or the Nation's instrumentalities. Any Council Member that received any donation from a person that has been appointed an official shall abstain from voting on the confirmation of such person. Letters of inquiry, recommendation and reference for employees of the Nation or the Nation's instrumentalities by officials shall not be considered official authority or influence unless such letter contains a threat, intimidation, or irrelevant, derogatory or false information.

B. Payment for Appointment. It shall be unlawful for any person to directly, or indirectly, give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or as a result of any appointment, proposed appointment, promotion or proposed promotion to or any advantage in, a position in the classified or unclassified service.

C. Violations. Any alleged violation(s) of this section shall be reported to the Cherokee Nation Attorney General for prosecution as applicable. Any elected official who violates any provision of this section shall be deemed guilty of a crime involving official misconduct and willful neglect of duty, and may be subject to removal from office as prescribed in the Constitution and laws of the Cherokee Nation.

D. Criminal Sanctions. Any official, employee or other person who is a Citizen of the Cherokee Nation or a member of any other federally recognized Indian tribe who has violated any requirement or prohibition of this section shall be guilty of a crime and subject to: (i) prosecution under the Penal Code of the Cherokee Nation and subject to the penalties therein; and (ii) disqualification for any current or future appointment within the Nation and/or the Nation's instrumentalities.

E. Civil Damages. Any person, employee, corporation or other legal entity who or which has violated this section shall be liable to the Cherokee Nation in the amount of ten (10) times the contribution amount. Said damages shall be payable to the Cherokee Nation within six (6) months upon a finding of a violation(s) by the Cherokee Nation District Court.

F. Investigations and Prosecutions. Pursuant to Article VII, Section 13 of the Cherokee Nation Constitution and 51 C.N.C.A. § 105 (B)(14), the Cherokee Nation Attorney General shall be empowered to investigate and prosecute all actions, civil or criminal, relating to civil actions or crimes against or within the jurisdiction of the Cherokee Nation, provided that any such criminal actions shall be investigated in coordination with the Cherokee Nation Marshal Service and/or any federal or local law enforcement agency, as determined by the Cherokee Nation Attorney General.

Section 6. Provisions as Cumulative

The provisions of this Legislative Act shall be cumulative to existing law.

Section 7. Severability

The provisions of this Legislative Act are severable and if any part or 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. Effective Date/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.