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November 6, 2012

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Law and Order Committee pass two legislations each proposing amendments to Navajo Nation Election Code

WINDOW ROCK, Ariz. – The Law and Order Committee on Monday passed two pieces of legislations, both sponsored by Council Delegate Alton Joe Shepherd (Cornfields, Ganado, Jeddito, Kin Dah Łichíí', Steamboat), proposing amendments to the Navajo Nation Election Code.

Legislation No. 0462-12, which amends the Election Code by clarifying provisions specifying the qualification requirements for officials in elected positions, passed with vote of 2-1.

The legislation also amends the code to impose procedural steps for removing elected officials who fail to maintain the qualifications of office throughout their term.

“What we have brought forth, in my opinion, is something that has been long overdue. We are bringing the Election Code up to today’s standard,” said Delegate Shepherd, noting that though the current code mentions maintenance of qualification requirements while in elected office, it does not outline procedures for the removal of officials who fail to maintain those qualifications.

“Where the law is silent, you are allowing the courts to interpret” what happens once an elected official violates one or more qualification requirements or is convicted of felonies and certain misdemeanors while in office, Delegate Shepherd explained.

The inclusion of removal procedures into the Election Code also provides for due process in that an elected official will be provided written notice by the Navajo Election Administration stating that he or she has failed to maintain the qualifications of office and his or her position will be declared vacant.

Once the official receives notice, he or she may file a statement of grievance with the Office of Hearing and Appeals.

At the tail end of discussion on the legislation, Council Delegate Russell Begaye (Shiprock) motioned for an amendment to insert language specifying that the term “officials” includes “chapter officials, school board members, Navajo Board of Elections supervisors, and all others elected under Navajo Nation law” as those who will be subject to removal if failure to maintain qualification requirements occurs.

The amendment passed unanimously with a vote of 3-0.

The committee also voted 2-1 in favor of Legislation No. 0463-12, a bill that amends the Election Code by requiring that all ethics judgments against an individual seeking an elected position be satisfied prior to candidacy for elective office.

The impetus for this legislation stemmed from a report provided by the Ethics and Rules Office at a regular LOC meeting on Aug. 27, in which committee members learned that because of loophole in the

Election Code, individuals could be certified to run for elective office despite owing money to the Nation in the form of restitution.

Navajo Nation officials and employees found in violation of the Ethics in Government law can have sanctions and penalties imposed on them including removal from office, administrative fees, civil damages, orders of restitution and criminal punishment.

A disqualification period of 5-years may be placed on individuals removed from office in which they cannot seek candidacy for elective office. Once this period ends, it is legally unclear whether an individual continues to be ineligible for office if he or she still has a restitution balance with the Nation, or has not complied fully with other sanctions that were originally imposed.

“We’re trying to close the loopholes in the Elections Code,” said Delegate Shepherd. “If you are applying as a candidate, you need to satisfy your judgments. And if you owe restitution, you’re going to have to pay it.”

Simply stated, Delegate Shepherd said that the proposed amendments to Title 2, the Navajo Ethics in Government Law, will require individuals to pay all restitution owed to the Nation in full before being certified for election candidacy.

The two legislations will now move onto the Naa’bik’iyati’ Committee for consideration. The full Navajo Nation Council will have final authority on the legislations.

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