



THE NAVAJO NATION

OFFICE OF THE PRESIDENT & VICE PRESIDENT

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Navajo Nation Attorney General Louis Denetsosie finds legislation to elect judges invalid; Council failed to send to President to sign, veto

WINDOW ROCK, Ariz. – Navajo Nation Attorney General Louis Denetsosie said today that legislation that calls for the election of Navajo judges is invalid because the Legislative Branch failed to send it to Navajo Nation President Joe Shirley, Jr., for signing or veto.

In a three-page legal opinion, Mr. Denetsosie found that the Legislative Branch's failure to send the legislation to the President's office for review or consideration within 10 days of certification violated sections 165(B) and 1005(C)(10) and (11) of Title 2, and is consequently invalid.

On July 21, the Navajo Nation Council approved legislation CJY-32-10 to refer a referendum measure to the Navajo people to vote on whether to elect Navajo judges and restructure the Judicial Branch.

After the legislation passed, it was certified by Navajo Nation Council Speaker Lawrence T. Morgan but was never sent to the President's office for consideration as all legislation must.

Mr. Denetsosie found that the resolution proposed new laws and amendments to law. Because of that, it is subject to review by the President for either signing into law or a veto.

"In the event this legislation approved," he found, "there will be significant changes to the Judicial Branch of the Navajo Nation government including the election of District Court Judges and Supreme Court judges."

According to Title 2 Section 165, "all proposed resolutions enacting new laws, amending existing laws, or adopting a statement of policy ... are subject to veto by the President of the Navajo Nation..."

The only type of Council resolution that does not have to go the President for consideration and review is a resolution approving internal procedures and policies of, or endorsements from, the Navajo Nation Council, Mr. Denetsosie said.

"To be valid, the resolution had to be presented to the President, for either signature or veto, within 10 days of certification."

– Navajo Nation Attorney General Louis Denetsosie

"Accordingly, to be valid, the resolution had to be presented to the President, for either signature or veto, within 10 days of certification," he said. "Resolution No. CJY-32-10 was not presented to the President within 10 days of certification and it is therefore not valid."

The Council's rationale for the legislation, sponsored by Council Delegate Thomas Walker, Jr., considered only two recent cases that involved the Council and Council reduction. It disregarded that Navajo courts and judges deal primarily with civil, criminal and family cases that have nothing to do with politics.

Mr. Walker repeatedly denied that the legislation was legislative retaliation for rulings that allowed the Dec. 15, 2009, government reform election to proceed.

However, on May 7, he reported to the Judiciary Committee that the election of judges was necessary because "judges in our courts are supposed to be very independent as ever, but it appears otherwise if you look at decisions in election-related cases and legislative enactment cases that the decisions serve the best interests of the Executive Branch."