

LEGISLATIVE SUMMARY SHEET

Tracking No. 0310-15

DATE: August 25, 2015

TITLE OF RESOLUTION: AN ACTION RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO NATION COUNCIL; AMENDING NAVAJO NATION CODE, TITLE 7: CREATING THE NAVAJO NATION BUSINESS COURT

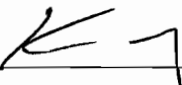
PURPOSE: The resolution's purpose is to create the Navajo Nation Business Court.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: None
Website Posting Time/Date: _____
Posting End Date: 9/9/2015
Eligible for Action: 9/10/2015

Law & Order Committee
THENCE
Naa'bik'iyáti' Committee
THENCE
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION
23rd NAVAJO NATION COUNCIL -- First Year, 2015
INTRODUCED BY


(Prime Sponsor) *Kae Allen Seguy Jr.*

TRACKING NO. 0310-15

AN ACTION
RELATING TO LAW AND ORDER, NAABIK'ÍYÁTI' COMMITTEE AND NAVAJO
NATION COUNCIL; AMENDING NAVAJO NATION CODE, TITLE 7: CREATING
THE NAVAJO NATION BUSINESS COURT

BE IT ENACTED:

Section One. Findings.

- A. The Navajo Nation Council may create other Navajo Nation courts. 7 N.N.C. § 201 (B).
- B. The Navajo Nation Council gave the Law and Order Committee legislative oversight over the Judicial Branch. 2 N.N.C. § 601(C)(1).
- C. The Law and Order Committee of the Navajo Nation Council reviews and makes recommendations to the Navajo Nation Council proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14).
- D. The Naabik'iyáti' Committee of the Navajo Nation Council reviews proposed legislation which requires final action by the Navajo Nation Council. 2 N.N.C. § 164(A)(9)
- E. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. 2 N.N.C. § 164(A).
- F. The Law and Order Committee's purpose is "[t]o improve the administration of justice on the Navajo Nation by ensuring a justice system that is independent from political influence and that is accountable and responsible to the Navajo Nation in its administration and operations" and "[t]o protect the rights and interests of the Navajo

1 People by improving the quality and effectiveness of the justice system within the Navajo
2 Nation. 2 N.N.C. § 600 (C)(1) and (2) (2012) *see also* CJA-03-13.

3 G. In 1985, the Navajo Nation Council enacted the Judicial Reform Act with the goal of
4 strengthening the Navajo Nation Courts by creating the Navajo Nation Supreme Court
5 that will hear appeals and render final judgments based on “law, equity, and tradition.”
6 CD-95-85 Whereas Cl. 13 (1985).

7 H. Pursuant to CD-68-89, resolved clause 6, “[t]he Navajo Tribal Council further authorizes
8 and directs that any amendment to...the 1985 Judicial Reform Act, 7 N.T.C., Section 101
9 et. seq., shall require two thirds ($\frac{2}{3}$) vote of the full membership of the Navajo Tribal
10 Council...these amendments shall be presented at the regular session of the Navajo Tribal
11 Council.” CD-68-89 Resolved Cl. 6 (1989).

12 I. The Law and Order Committee believes creating the Navajo Nation Business Court is
13 necessary in order to improve the administration of justice, improve the judicial quality
14 and effectiveness, and protect the Navajo People’s rights and interest. 2 N.N.C. § 600
15 (C)(1) and (2).

16 17 **Section Two. Amending Navajo Nation Code Title 7**

18 The Navajo Nation amends the Navajo Nation Code, Title 7 as follows:

19 _____
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21 Title 7. Courts and Procedure
22 Chapter 3. Judicial Branch
23 Subchapter 4a. Navajo Nation Business Court
24

25 **§ 294. Establishment and Eligible Cases**

26 A. There is established the Navajo Nation Business Court.

27 B. The criteria for assignment or transfer to the Navajo Nation Business Court are:

28 1. Civil cases filed on or after January 1, 2016, and
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- 1 2. Cases, as defined in 7 N.N.C. § 394 (B)(3), in which at least fifty thousand
2 (\$50,000) dollars compensatory damages are alleged, or claims seeking
3 primarily injunctive or declaratory relief, and
4 3. Cases which satisfy one or more of the following:
5 a. Relate to the internal affairs of businesses (i.e., corporations, limited
6 liability companies, general partnerships, limited liability partnerships,
7 sole proprietorships, professional associations, real estate investment
8 trusts, and joint ventures), including the rights or obligations between
9 or among shareholders, partners, and members, or the liability or
10 indemnity of officers, directors, managers, trustees or partners;
11 b. Involve claims of breach of contract, fraud, misrepresentation, breach
12 of fiduciary duty or statutory violations or relationships;
13 c. Constitute a shareholder derivative or commercial class action;
14 d. Involve commercial real property disputes other than residential
15 landlord-tenant disputes and foreclosures;
16 e. Involve business claims between or among two or more business
17 entities or individuals as to their business or investment activities
18 relating to contracts, transactions, or relationships between or among
19 them;
20 f. Arise from technology licensing agreements, including software and
21 biotechnology licensing agreements, or any agreement involving the
22 licensing of any intellectual property right, including patent rights;
23 g. Constitute an action alleging violations of noncompete,
24 nonsolicitation, or confidentiality agreement, or an antitrust, trade
25 secret, or securities-related action;
26 h. Professional malpractice claims brought in connection with the
27 rendering of professional services to a business enterprise;
28 i. Commercial construction contract dispute and/or commercial
29 construction defect claims.
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1 **§ 295. Excluded Cases**

2 The following cases are excluded from the Navajo Nation Business Court:

- 3 A. Personal injury or wrongful death;
4 B. Professional malpractice claims;
5 C. Residential landlord-tenant matters, including residential foreclosure actions;
6 D. Employee/employer disputes, except where pendent or incidental to the matters listed
7 in 7 N.N.C. § 294(B);
8 E. Health care liability;
9 F. Where the only claim is a professional fee dispute;
10 G. Where the Navajo Nation is a party;
11 H. Administrative appeals from the Office of Hearings and Appeals and the Navajo
12 Nation Labor Commission, including tax and zoning matters.

13 **§ 296. Composition**

- 14 A. The Navajo Nation Business Court shall consist of one district court judge, who shall
15 be assigned by the Chief Justice.
16 B. The Navajo Nation Business Court judge shall be state and Navajo Nation licensed
17 attorney who has five years business experience.

18 **§ 297. Rules and Procedure**

19 The Navajo Rules of Civil Procedure, the Navajo Rules of Evidence and Navajo Rules of
20 Court shall apply to the Navajo Nation Business Court. In addition, the Navajo Nation
21 Business Court shall have broad discretion to establish Navajo Rules of the Business Court
22 and to develop case management procedures to allow for more efficient handling of cases
23 and produce quicker resolutions with reduced litigation in accordance with 7 N.N.C. § 601.

24 **§ 298. Appellate Review**

25 The Navajo Nation Supreme Court shall have jurisdiction to hear appeals from final Navajo
26 Nation Business Court judgments and other final orders as provided in 7 N.N.C. § 302.

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Title 7. Courts and Procedure

Chapter 3. Judicial Branch

Subchapter 3. District Courts

§253. Jurisdiction-Generally

C. The Navajo Nation Business Court shall have original exclusive jurisdiction over all cases outlined in 7 N.N.C. § 294 (B).

Title 7. Courts and Procedure

Chapter 3. Judicial Branch

Subchapter 7. Justices and Judges

§354. Qualifications for judicial appointment

A. District Courts. The following standards and qualifications shall apply to all judicial appointments to the District Court of the Navajo Nation:

3. Education. Each applicant shall have earned, at a minimum, an Associate of Arts or Science degree from an accredited institution of higher education. An applicant who has earned a higher educational degree shall be preferred, with particular preference being given to a law degree (J.D. or LL.M.). Navajo Nation Business Court applicants must hold a Juris Doctor (J.D.) degree from an ABA accredited law school.

4. Experience. Each applicant shall have at least four years direct work experience in a law related area and shall have a working knowledge of Navajo and applicable federal and state laws. Those applicants with experience working with the Navajo Nation Courts or with state and federal courts shall be preferred. Navajo Nation Business Court applicants must have five years business experience.

1 **Section Three. Appropriation**

2 The Judicial Branch shall appropriate funding for the Navajo Nation Business Court in their
3 Fiscal Year 2017 budget in accordance with 12 N.N.C. §840.

4 **Section Four. Codification**

5 The provisions of the Act which amend or adopt new sections of the Navajo Nation Code
6 shall be codified by the Office of Legislative Counsel. The Office of Legislative Counsel shall
7 incorporate such amended provisions in the next codification of the Navajo Nation Code.

8 **Section Five. Savings Clause**

9 Should any provision of this Act be determined invalid by the Navajo Nation Supreme Court
10 or the District Courts of the Navajo Nation, without appeal to the Navajo Nation Supreme Court,
11 the remainder of the Act shall remain the law of the Navajo Nation.

12 **Section Six. Effective Date**

13 The provisions of this Act shall become effective in accord with 2 N.N.C. § 221(B).
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