

See Vetoed
LA# 24-05

An Act

LEGISLATIVE ACT 15-04

AN ACT AMENDING LA #16-01 RELATING TO REFERENDUM AND INITIATIVE MEASURES; SETTING PROCEDURES; SETTING CRIME AND PUNISHMENT; AND DECLARING AN EMERGENCY

BE IT ENACTED BY THE CHEROKEE NATION:

SECTION I. TITLE AND CODIFICATION

This Act shall be titled and codified as *The Referendum and Initiative Procedures Act*.

SECTION II. PURPOSE

The purpose of this Act is to set standards and procedures for referendum and initiative measures.

SECTION III. FORM OF REFERENDUM PETITION:

The referendum petition shall appear in conformance with the following form:

To the Cherokee Nation:

We, the undersigned legal voters of the Cherokee Nation respectfully order that Cherokee Nation Legislative Act No. _____, entitled _____ (title of Act, and if the petition is against less than the whole Act, then set forth here the part or parts on which the referendum is sought), passed by the Cherokee Nation Tribal Council, at the regular session of said Council on _____ (date), shall be referred to the people of the Cherokee Nation for their approval or rejection at the regular (or special) election. I have personally signed this petition; I am a legal voter of the Cherokee Nation (and district of _____); my physical residence and voter identification number are correctly written after my name.

Referendum petitions shall be filed with the Secretary/Treasurer of the Cherokee Nation not more than ninety (90) days after the session of the Council, which passed the legislation on which the referendum is demanded.

The question we herewith submit to our fellow voters is shall the following legislation of the Cherokee Nation Tribal Council be approved? (Insert here an exact copy of the title and text of the legislation.)

Name and Address of Proponents (not to exceed three)

Name _____ Physical Residence _____ P.O. Box _____ ID# _____

(Here follow twenty numbered lines for signatures.)

SECTION IV. FROM OF INITIATIVE PETITION:

The form of initiative petition shall be substantially as follows:

INITIATIVE PETITION

To the Cherokee Nation:

We, the undersigned legal voters of the Cherokee Nation, respectfully order that the following proposed law shall be submitted to the legal voters of the Cherokee Nation for their approval or rejection at the regular general election and each for himself says: I have personally signed this petition; I am a legal voter of the Cherokee Nation; my physical

residence, post office address, and voter identification number are correctly written after my name. The time for filing this petition expires ninety (90) days after original filing. The question we herewith submit to our fellow voters is: shall the following legislative act or proposed amendment to the Constitution or resolution be approved?

Name and Address of Proponents (not to exceed three)

Name _____ Physical Residence _____ PO Box _____ ID # _____

(Here follow with twenty numbered lines for signatures.)

SECTION V. CANVASS PROCEDURE:

Whenever any measure or proposition is submitted to a vote by the initiative or referendum, it shall be the duty of the Tribal Election Commission to make and transmit the returns thereof to the Cherokee Nation Tribal Council in the same manner that they make their returns in the case of an election or other tribal officers, transmitting a certificate of the total number of electors voting in such elections to the Tribal Council.

SECTION VI. WHO MAY SIGN PETITION AND VOTE PENALTIES:

Every person who is a qualified elector of the Cherokee Nation may sign a petition for the referendum or for the initiative for any measure upon which he/she is legally entitled to vote. Any person signing any name other than his/her own to any petition, or knowingly signing his/her name more than once for the same measure at one election, or who is not at the time of signing the same a legal voter, or whoever falsely makes or willfully destroys a petition or any part thereof, or who signs or files any certificate or petition knowing the same or any part thereof to be falsely made, or suppresses any certificate or petition or any part thereof which has been duly filed or who shall violate any provisions of this statute, or who shall aid or abet any other person in doing any of said acts; and any person violating any provision of this chapter, shall upon conviction thereof be guilty of a crime and shall be punished by a fine of not exceeding Five Hundred Dollars (\$500.00) and such other civil penalty in the discretion of the Cherokee Nation Tribunal before which such conviction shall be had.

SECTION VII. TIME FOR SUBMISSION OF INITIATED AND REFERRED MEASURES:

Whenever any measure shall be initiated by the people in the manner provided by law, or whenever the referendum shall be demanded against any measure passed by the Tribal Council, same shall be submitted to the people for their approval or rejection at the next regular or special election as provided at Article XV, Section 4 of the Cherokee Nation Constitution.

SECTION VIII. DISTRIBUTION OF INFORMATION REGARDING PROCESS:

The Election Commission shall prepare and distribute information to the public on the initiative and referendum process. The information shall include, but not be limited to relevant statutes and constitutional provisions related to the initiative and referendum process. The information should also outline the initiative and referendum process in a chronological order.

SECTION IX. PETITIONS AND SIGNATURES:

Each initiative petition and each referendum petition shall be duplicated for the securing of signatures, and each sheet for signatures shall be attached to a copy of the petition. Each copy of the petition and sheets for signatures is hereinafter termed a pamphlet. On the outer page of each pamphlet shall be printed the word "**warning**" and underneath this in ten-point type the words in bold letters,

"it is a crime for anyone to sign an initiative or referendum petition with any name other than his own, or knowingly to sign his name more than once for the measure, or to sign such petition when he is not a legal voter or to provide false information."

A clear and concise statement of the proposition shall be printed on the top margin of each signature

sheet. Not more than twenty (20) signatures on one sheet, on lines provided for the signatures shall be counted. Any signature sheet not in substantial compliance with this act shall be disqualified.

SECTION X. FILING AND BINDING:

When any such initiative or referendum petition shall be offered for filing, the Election Commission, in the presence of the person offering the same for filing, shall detach the sheets containing the signatures and affidavits and cause them all to be attached to one or more printed copies of the measure so proposed by initiative or referendum. All petitions for the initiative and referendum and sheets for signatures shall be printed on pages eight and one-half (8½) inches in width by fourteen (14) inches in length, with a margin of one and three-fourths (1¾) inches at the top for binding; if the aforesaid sheets shall be too bulky for convenient binding in one volume, they may be bound in two or more volumes, those in each volume to be attached to a single printed copy of such measure; the detached copies of such measures shall be delivered to the person offering the same for filing. Each of the volumes and each signature sheet therein shall be numbered consecutively, and a cover sheet shall be attached, showing the purported number of signature sheets, the series of numbers assigned to the signature sheets and the total number of signatures, counted per volume. The Commission shall render a signed receipt to the person offering the petition for filing, which receipt shall include a report, volume by volume, showing the number of signature sheets in each volume the series of numbers assigned to the signature sheets in each volume, and the number of purported signatures in each volume. Duplicate copies of the cover sheets, with necessary corrections, may be used as receipts. The Commission shall not provide any copies of signature sheets to anyone until the sheets have been bound as provided in this section.

SECTION XI. APPROVAL AND PRESERVATION:

If the people shall at the ensuing election, approve any measure, then the copies so preserved, with the sheets of signatures and affidavits, and a certified copy of the Chief's proclamation declaring the same to have been approved by the people, shall be bound together in such form that they may be conveniently identified. The Secretary/Treasurer of the Cherokee Nation shall preserve the material required to be bound together for three (3) years after the measure was filed.

SECTION XII. VERIFICATION OF SIGNATURES:

Each sheet of every such petition containing signatures shall be verified on the back thereof, in substantially the following form, by the person who circulated said sheet of said petition, by his or her affidavit thereon and as a part thereof, AS FOLLOWS:

State of Oklahoma,)
) ss.
County of _____)

I, _____, being first duly sworn, say: That I am a qualified elector of the Cherokee Nation and that (Here shall be legibly written or typewritten the names of the signers of the sheet), signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence; I believe that each has stated his name, post office address, physical residence, and identification number correctly, and that each signer is a legal voter of the Cherokee Nation and District No. _____ (the case may be).

(Signature and address of affiant.)

Subscribed and sworn to before me this ____ day of _____ A.D. 20__.

(Signature and title of the officer before whom oath is made, and his address.)

SECTION XIII. PHYSICAL COUNT OF SIGNATURES:

The Election Commission shall make or cause to be made a physical count of the number of signatures on the petitions. In making such count, the Commission shall not include in such physical count:

- 1. All signatures on any sheet of my petition, which is not verified by the person who

circulated the sheet of the petition as provided hereinabove;

2. All signatures of persons who do not list an address or Cherokee Nation Registry Number;
3. All signatures on a sheet that is not attached to a copy of the petition;
4. All multiple signatures on any printed signature line;
5. All signatures not on a printed signature line;
6. Those signatures by a person who signs with any name other than his own or signs more than once; and
7. All signatures on any sheet on which a notary has failed to sign, the seal of the notary is absent, the commission of a notary has expired or the expiration date is not on the signature sheet.

The Election Commission shall notify the Cherokee Nation Prosecutor of any and all violations of this act of which he has knowledge.

SECTION XIV. NUMBERING PETITIONS:

Each order for a direct ballot by the voters that is filed by initiative petition, referendum petition, and by the Tribal Council shall be numbered consecutively, each in a series by itself, beginning with one, to be continued year after year, without duplication of numbers.

SECTION XV. FILING COPY OF PROPOSED PETITION:

When a citizen or citizens desire to circulate a petition initiating a proposition of any nature, whether to become a law or an amendment to the Constitution, or for the purpose of invoking a referendum upon legislative enactments, such citizen or citizens shall, when such petition is prepared, and before the same is circulated or signed by electors, file a true and exact copy of same in the office of the election commission and, within ninety (90) days after such filing of an initiative petition, the signed copies thereof shall be filed with the Election Commission, but the signed copies of a referendum petition shall be filed with the Secretary-Treasurer within ninety (90) days after the adjournment of the Tribal Council enacting the measure on which the referendum is invoked. The electors shall sign their legally registered name, their address or post office box, and Cherokee Nation Registry identification number. Any petition not filed in accordance with this provision shall not be considered. The proponents of a referendum or an initiative petition, any time before the final submission of signatures, may withdraw the referendum or initiative petition upon written notification to the Election Commission.

The proponents of a referendum or an initiative petition may terminate the circulation period any time during the ninety-day circulation period by certifying to the Election Commission that:

1. All signed petitions have already been filed;
2. No more petitions are in circulation; and
3. The proponents will not circulate any more petitions.

If the Election Commission receives such a certification from the proponents, the Commission shall begin the counting process.

When the signed copies of a petition are timely filed, the Election Commission shall certify to the Judicial Appeals Tribunal of the Cherokee Nation:

1. The total number of signatures counted pursuant to procedures set forth in this title; and
2. The total number of votes cast for the office receiving the highest number of votes cast at the last general election.

The Judicial appeals Tribunal shall make the determination of the numerical sufficiency or insufficiency of the signatures counted by the Election Commission. All in accordance with Article XV Section 3 of the Cherokee Nation Constitution.

SECTION XVI. EFFECT OF FILING PETITION:

Filing of a Petition for referendum or initiative shall not operate to stay the legislative measure on which the initiative or referendum is invoked.

SECTION XVII. PROTEST:

Upon order of the Judicial Appeals Tribunal it shall be the duty of the Election Commission to forthwith cause to be published, in at least one newspaper of general circulation in the state, a notice of such filing and the apparent sufficiency or insufficiency thereof a notice that any citizen or citizens of the state Cherokee Nation may file a protest to the petition or an objection to the count made by a written notice to the Judicial Appeals Tribunal and to the proponent or proponents filing the petition, said protest to be filed within ten (10) days after publication. A copy of the protest or objection to the count shall be filed with the Election Commission. In case of the filing of an objection to the count, notice shall also be given to the Election Commission and the party filing a protest, if one was filed.

The Election Commission shall deliver the bound volumes of signatures to the judicial Appeals Tribunal.

Upon the filing of an objection to the count, the Judicial Appeals Tribunal shall resolve the objection with dispatch. The Judicial Appeals Tribunal shall adopt rules to govern proceedings to apply to the challenge of a measure on the grounds that the proponents failed to gather sufficient signatures.

Upon the filing of a protest to the petition, the Judicial Appeals Tribunal shall then fix a day, not less than ten (10) days thereafter, at which time it will hear testimony and arguments for an against the sufficiency of such petition.

A protest filed by anyone hereunder may, if abandoned by the party filing same, be revived within five (5) days by the other citizen. After such hearing the Judicial Appeals Tribunal shall decide whether such petition be in form as required by this Act. If the Court be at the time adjourned, the Chief Justice shall immediately convene the same for such hearing. No objection to the sufficiency shall be considered unless the same shall have been made and filed as herein provided.

If in the opinion of the Judicial Appeals Tribunal, any objection to the count or protest to the petition is frivolous, the Court may impose appropriate sanctions, including an award of costs and attorneys fees to either party as the court deems equitable.

SECTION XVIII. PUBLICATION OF MEASURE:

It shall be the duty of Cherokee Nation at which any proposed law, part of an act, or amendment to the Constitution is to be submitted to the people of the state Cherokee Nation for their approval or rejection, to cause to be published once in two different newspapers of general statewide circulation and in a newspaper of general circulation in each county of the Cherokee Nation, a copy of all ballots on initiated and referred questions, measures, and constitutional amendments, and an explanation of how to vote for or against propositions. The Secretary shall designate the newspapers in which the publication shall be made. The publication shall be paid for at the legal rate for other publications, out of any funds of the Cherokee Nation appropriated therefore.

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

SECTION XIX. FILING OFFICIAL BALLOTS, REVIEW:

When a referendum is ordered by petition of the people against any measure passed by the Tribal Council or when any measure is proposed by initiative petition, whether as an amendment to the Constitution or as a statute, it shall be the duty of the parties submitting the measure to prepare and file one copy of the measure with the Election Commission and one copy with the Prosecutor's Office.

The parties submitting the measure shall also submit a suggested ballot title, which shall be filed on a separate sheet of paper shall not be deemed part of the petition. The suggested ballot title:

1. Shall not exceed two hundred (200) words;
2. Shall explain in basic words, which can be easily found in dictionaries of general usage, the effect of the proposition;
3. Shall be written on the eighth grade reading comprehension level;
4. Shall not contain any words that have a special meaning for a particular profession or trade not commonly known to the citizens of the Cherokee Nation;
5. Shall not reflect partiality in its composition or contain any argument for or against the measure;
6. Shall contain language which clearly states that a "yes" vote is a vote in favor of the proposition and a "no" vote is a vote against the proposition; and
7. Shall not contain language whereby a "yes" vote is, in fact, a vote against the proposition and a "no" vote is, in fact, a vote in favor of the proposition.

When a measure is proposed as a constitutional amendment by the Tribal Council or when the Tribal Council proposes a statute conditioned upon approval by the people:

1. After final passage of a measure the Election Commission shall submit the proposed ballot title to the Cherokee Nation prosecutor for review as to legal correctness. Within five (5) business days, the prosecutor shall, in writing, notify the Election Commission and the Tribal Council members whether or not the proposed ballot title complies with applicable laws. The Prosecutor shall state with specificity any and all defects found and, if necessary, within ten (10) business days of determining that the proposed ballot title is defective, prepare and file a ballot title which complies with the law.
2. After receipt of the measure and the official ballot title, as certified by the Prosecutor, the Election Commission shall within five (5) days transmit to the Tribal Council an attested copy of the measure, including the official ballot title.

The following procedure shall apply to ballot titles of referendums ordered by a petition of the people or any measure proposed by an initiative petition:

1. After the filing and binding of the petition pamphlets, the Election Commission shall submit the proposed ballot title to the Prosecutor for review as to legal correctness. Within five (5) business days after the filing of the measure and ballot title, the Prosecutor shall, in writing, notify the Election Commission whether or not the proposed ballot title complies with applicable laws. The Prosecutor shall state with specificity any and all defects found and, if necessary, within ten (10) business days of determining that the proposed ballot title is defective, prepare and file a ballot title which complies with the law; and
2. Within ten (10) business days after completion of the review by the Prosecutor the Election Commission shall, if no appeal is filed, transmit to the Tribal Council an attested copy of the measure, including the official ballot title, and a certification that the requirements of this section have been met. If an appeal is taken from such ballot title within the time specified in this title, then the Election Commission shall certify the ballot title, which is finally approved by the Judicial Appeals Tribunal.

SECTION XX. SEVERABILITY

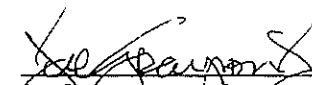
The provisions of this Act are severable and if any part or provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this Act.

SECTION XXI. AMENDMENT

This Act amends and supercedes all conflicting Acts.

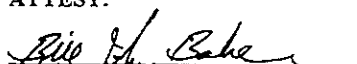
SECTION 8. EMERGENCY DECLARED

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.



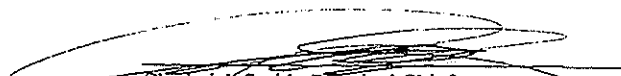
Joe Grayson, Jr., President
Council of the Cherokee Nation

ATTEST:




Bill John Baker, Secretary
Council of the Cherokee Nation

Approved and signed by the Principal Chief this 19th day of APRIL, 2004.



Chadwick Smith, Principal Chief
Cherokee Nation

ATTEST:



Callie Catcher, Secretary/Treasurer
Cherokee Nation

YEAS AND NAYS AS RECORDED:

Bill John Baker	<u>YEA</u>	Melvina Shotpouch	<u>YEA</u>
Audra Smoke-Connor	<u>YEA</u>	Meredith Frailey	<u>YEA</u>
S. Joe Crittenden	<u>YEA</u>	John F. Keener	<u>YEA</u>
Jackie Bob Martin	<u>YEA</u>	Cara Cowan	<u>YEA</u>
Phyllis Yargee	<u>YEA</u>	Buel Anglen	<u>YEA</u>
David W. Thornton, Sr	<u>YEA</u>	William G. "Bill" Johnson	<u>YEA</u>
Don Garvin	<u>YEA</u>	Charles "Chuck" Hoskin	<u>YEA</u>
Linda Hughes-O'Leary	<u>YEA</u>		