TITLE: An Action Relating To NAABIK’IYATI’ And The Navajo Nation Council; Cancelling The Primary Election For The 2020 Chapter Election; Setting One Chapter Election Date For November 3, 2020; Waiving 11 N.N.C. §§ 3(C) And 41

Date posted: May 20, 2020 at 5:47 PM

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7586

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Navajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. §374 et. seq.
DATE: May 15, 2020

TITLE OF RESOLUTION: AN ACTION RELATING TO NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL; CANCELLING THE PRIMARY ELECTION FOR THE 2020 CHAPTER ELECTION; SETTING ONE CHAPTER ELECTION DATE FOR NOVEMBER 3, 2020; WAIVING 11 N.N.C. §§ 3(C) AND 41

PURPOSE OF RESOLUTION: This resolution, if approved, will cancel the Primary Election for the 2020 Chapter Election. There will be one Chapter Election which will be conducted on November 3, 2020. The election results will be determined by plurality vote. Election Code provisions necessary to be waived are 11 N.N.C. §§ 3(C) and 41.

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.
PROPOSED NAVAJO NATION COUNCIL RESOLUTION

24th NAVAJO NATION COUNCIL -- Second Year, 2020

INTRODUCED BY

(Prime Sponsor)

TRACKING NO. 0123-20

AN ACTION

RELATING TO NAABIK'ÍYÁTI' AND THE NAVAJO NATION COUNCIL;
CANCELLING THE PRIMARY ELECTION FOR THE 2020 CHAPTER ELECTION;
SETTING ONE CHAPTER ELECTION DATE FOR NOVEMBER 3, 2020; WAIVING
11 N.N.C. §§ 3(C) AND 41

BE IT ENACTED:

SECTION ONE. AUTHORITY

A. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A).

B. The Naabik'íyáti' Committee is a standing committee of the Navajo Nation Council. 2 N.N.C. § 700. Pursuant to 2 N.N.C. §164(A)(9), "a proposed resolution that requires final action by the Navajo Nation Council [must] be assigned to standing committee(s) having authority over the subject matter at issue and the Naabik'íyáti' Committee."

C. The Navajo Board of Election Supervisors was created by the Navajo Nation Council as "an independent entity." 2 N.N.C. § 871(A), Consistent with this status, the Board is responsible only to the Navajo Nation Council, with the authority to enforce provisions of the Navajo Election Code and to make rules and regulations furthering the intent and purposes of the Election Code. 2 N.N.C. § 873(B)(6) and 11 N.N.C. §§ 321(A)(6) and 322.
SECTION TWO. FINDINGS

A. Under the Navajo Nation Election Code, primary election for the 2020 Chapter Elections must be conducted August 4, 2020. 11 N.N.C. 3(C).

B. Pursuant to directive of the Navajo Nation Council for recommendations, the Navajo Board of Election Supervisors, “the board,” is requesting that the primary election scheduled for August 4, 2020 be cancelled. Exhibit A, resolution BOESMY-024-20. The board expresses health concerns over the recent outbreak of coronavirus (COVID-19). The Navajo Election Administration (NEA) states similar concerns. Exhibit B, NEA memorandum. Essentially, the concerns are over the safety of the voting public, candidates, poll officials, and staff of the Election Administration. For purposes of mitigating the spread of COVID-19, the request is made for the cancellation of the primary election and that one election be held on November 3, 2020.

C. COVID-19 is a virus causing serious respiratory illness. It is pandemic, with many cases involving death continuing to be reported across the United States. In addressing the concerns, the Navajo Nation has issued a number of public health orders for all residents of the Navajo Nation. These orders include mandatory curfews, restrictions on public gatherings, the mandatory wearing of masks in public places and social distancing. Access to government offices has also been restricted to the general public. See, Emergency Management Commission resolution CEM 20-03-11; Executive Orders Nos. 001-20, 002-20, 003-20, 004-20; Public Health Emergency Orders 2020-001, 2020-002, 2020-003, 2020-004, 2020-005, 2020-006, 2020-007, 2020-008 (incorporated herein by this reference).

D. In spite of mitigation measures, COVID-19 has disproportionately affected the Navajo Nation. Today, the Navajo Nation has one of the highest per capita rates of positive tests for COVID-19 in the United States. See, https://thehill.com/policy/healthcare/497091-navajo-nation-has-more-coronavirus-cases-per-capita-than-any-us-state. The number of positive tests continues to increase at an alarming rate.
E. Historically, elections within the Navajo Nation have been conducted in-person. Although mail-in balloting is permitted, most voters choose to cast their ballots at the polling sites that are established in each of the 110 chapters on election day. The emergency caused by COVID-19 has impacted preparations for the 2020 Chapter Elections.

F. All voters, candidates and poll officials must be properly protected on election day. Preparations and precautionary measures must include the purchase and availability of Personnel Protective Equipment (PPE). The Navajo Election Administration calculates the costs for such protective equipment to range between $57,884.68 and $84,401.20. Exhibit B. In addition to these anticipated costs, the Election Administration is also reviewing the prospect of on-line voting, as well as purchasing computer software and additional equipment for election purposes. For the 2020 Chapter Elections, the Administration intends to continue working with Navajo Nation Health Command in ensuring compliance with all guidelines for conducting a safe election.

G. COVID-19 will likely affect voter turn in the 2020 Chapter Elections, particularly for the primary. Voter turn-out is generally lower in primary elections than in general elections. In the last Chapter Election conducted in 2016, the primary election voter turn-out was 29.52%. Aside this issue, the Navajo Board of Election Supervisors expresses concern regarding instances in which candidates will run unopposed in the primary election. Upon election, such candidates are automatically placed on the general election and certified upon such election.

H. COVID-19 presents a major challenge in the conduct of the 2020 Chapter Elections. The pandemic facing the Navajo Nation makes it extremely difficult to proceed with elections as has been done in the past. As there is no vaccine, it is crucial that the spread of the virus be minimized.

SECTION THREE. CANCELLING PRIMARY ELECTION; AUTHORIZING CHAPTER ELECTION FOR NOVEMBER 3, 2020

A. The Navajo Nation hereby cancels the primary election for the 2020 Chapter Elections. For purposes of this action, 11 N.N.C. §§ 3(C) and 41 are waived.
B. Chapter Elections shall be conducted on November 3, 2020. There shall be one election, with no primary election. All eligible candidates shall be placed on the election ballot and the winning results for each position shall be determined by plurality vote.

C. The Navajo Board of Election Supervisors shall set the candidate filing period, and shall further adopt any necessary rules and regulations for purposes of implementing and furthering the intent and purposes of this resolution of the Navajo Nation Council.

SECTION FOUR. EFFECTIVE DATE

This action of the Navajo Nation Council herein shall be effective pursuant to 2 N.N.C. § 221(B). Further, the "President's authority to sign into law or veto legislation shall be deemed waived if not exercised within ten calendar days after certification of the legislation by the Speaker or Speaker Pro Tem and the legislation shall be deemed enacted and become effective pursuant to 2 N.N.C. §221." 2 N.N.C. § 1005(C)(12).

SECTION FIVE. SAVINGS CLAUSE

Should any provision of these amendments be determined invalid by the Navajo Nation Supreme Court, or the District Courts of the Navajo Nation without appeal to the Navajo Nation Supreme Court, those amendments that are not determined invalid shall remain the law of the Nation.