

JULY 2005 CROW TRIBAL LEGISLATURE

BILL NO. CLB05-14

INTRODUCED BY CARL E. VENNE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH

A BILL FOR AN ACT ENTITLED:

“AN ACT PROVIDING FOR JUDICIAL ELECTIONS AND QUALIFICATIONS”

WHEREAS, Article X of the Crow Constitution provides as follows:

A Judicial Branch of the Crow Tribal Government shall consist of all courts established by the Crow Law and Order Code and in accordance with this Constitution. The Judicial Branch shall have jurisdiction over all matters defined in the Crow Law and Order Code. The Judicial Branch shall be a separate and distinct branch of government from the Legislative and Executive Branches of Crow Tribal Government. The election process for the Judicial Branch judges shall be in accordance with the Crow Law and Order Code. Qualifications for the Judicial Branch Judges shall be established in the Crow Law and Order Code. The Judicial Branch shall have no power to review Executive Branch decisions made within the scope of the enumerated powers of the Executive Branch. The Judicial Branch shall have a limited review of legislation passed by the Legislative Branch to determine whether the subject legislation is consistent with or in conflict with this Constitution.

WHEREAS, the Crow Law and Order Code does not currently provide procedures for the election of judges of the Crow Tribal Court; and

WHEREAS, the Crow Tribal Court is a fundamental institution of Tribal Government and the exercise of the Crow Tribe's sovereignty, and the judges are called upon to make important decisions in applying the laws of the Crow Nation; and

WHEREAS, candidates for election as judges of the Crow Tribal Court should be qualified by education and training to apply the laws of the Crow Nation to the cases before them; and

WHEREAS, the interests of the Crow Nation will be served by adoption of the following amendments to the Crow Law and Order Code;

NOW, THEREFORE, BE IT ENACTED BY THE CROW TRIBAL LEGISLATURE:

Section 1. The Crow Law and Order Code is amended as follows:

3-3-301. Judges. The Tribal Court shall be composed of three judges: one Chief Judge and two Associate Judges.

3-3-302. Chief Judge. The Chief Judge of the Tribal Court shall be elected by eligible voters of the Apsaalooke (Crow) Tribe to serve a four year term, and there shall be no limitation

as to the number of terms an individual may serve as the Chief Judge. The most recent election for Chief Judge having occurred in October, 2001, the next election for Chief Judge shall be November 2005, and an election shall be held every four years thereafter.

3-3-303. Chief Judge's Qualifications. (1) The Chief Judge must be at least thirty (30) years of age when elected; must have graduated from an accredited college with a post graduate degree; must be an enrolled member of the Apsaalooke (Crow) Tribe; must not have ever been convicted of a felony and must not have been convicted of a misdemeanor offense within five (5) years of the election, not to include minor traffic offenses. Driving under the influence of drugs or alcohol is not a minor traffic offense. To be eligible for election or appointment, a background investigation including tribal, state and federal criminal and child protection history must be completed prior to certification of candidacy or confirmation. In order to be eligible to run for election as Chief Judge in all elections after the October 2001 election, and prior to certification as a candidate for election, each candidate shall have passed the Crow Tribal bar examination. Elections for Chief Judge shall be conducted in accordance with Chapter VIII of this Title.

(2) The Chief Judge shall be the head of the Judicial Branch of the Absalooka (Crow) Tribal Government and the Chief Judge's duties and overall responsibilities shall include but not be limited to:

- a. Preside over civil and criminal cases and decide these case in a timely manner solely on the basis of the law and facts presented, without fear or favor, and without political influence or concern.
- b. Provide for the availability of a translator fluent in both the Absalooka (Crow) and English languages in all proceedings or matters for which any party or representative requests such service;
- c. Assign cases and other legal proceedings or matters to other Tribal Judges, Associate or Special Judges;
- d. Supervise the Tribal Court dockets;
- e. Supervise and maintain court records;
- f. Compile court statistics;
- g. Draft and promulgate court rules and court procedures;
- h. Supervise and monitor the performance of Tribal Probation and Parole Officers;
- i. Have the ultimate responsibility for the establishment of a law library;
- j. Draft personnel policies and procedures and use to
- k. Hire and supervise all Tribal Court staff. The Tribal Court staff shall include the Court Administrator and one Crow Licensed Attorney/Judicial Advisor/Clerk;
- l. Develop and present an annual proposed budget to the Chairman of the Executive Branch for submission to the Legislature
- m. With the exception of grants and contracts specifically wherein the Tribal Chairman (Grantee) is signatory on behalf of the Crow Tribe and conditioned on allowing reasonable time to change any and all grants and contracts to allow the signature of the Chief Judge on behalf of all grants and contracts to and for the Crow Tribal Court, prepare, administer and monitor separate and distinct from the

other two Government Branches the Tribal Court Budget wherein the Chief Judge shall with a CPA have exclusive signatory expenditure authority.

3-3-304. Associate Judges' Qualifications. (1) The Associate Judges must be at least thirty (30) years of age when elected; must have a high school education; must be an enrolled member of the Apsaalooke (Crow) Tribe; must not have ever been convicted of a felony and must not have been convicted of a misdemeanor offense within five (5) years of the election, not to include minor traffic offenses. Driving under the influence of drugs or alcohol is not a minor traffic offense. To be eligible for election or appointment, a background investigation including tribal, state and federal criminal and child protection history must be completed prior to certification of candidacy or confirmation. In order to be eligible to run for election as Associate Judge in all elections after the October 2001 election, and prior to certification as a candidate for election, each candidate shall have passed the Crow Tribal bar examination. Elections for Associate Judges shall be conducted in accordance with Chapter VIII of this Title.

3-3-305. Special Judges. The Chief Judge, in his or her discretion, may contract with a professional attorney licensed to practice before the highest court of any state, to sit as a Special Judge of the Tribal Court for a particular matter or proceeding or, in an appropriate case, may appoint a Crow tribal member to serve as a mediator or cultural specialist to assist the Court. Special Judges shall be subject to the rules of judicial ethics otherwise applicable to Crow Tribal Court Judges and to removal by the Judicial Ethics Board, and these requirements shall be stated in all Special Judge contracts. Special Judge or other contracts entered into by the Chief Judge to handle a particular matter pending before the Court shall not be subject to approval by any officer of any other Branch of the Tribal Government, subject to the approved Judicial Branch budget.

3-3-310. Filling Vacancies in Tribal Judge Positions. (1) If a vacancy shall occur in any of the positions of the elected Tribal Court Judges by reason of death, resignation, or removal for cause, a replacement shall be appointed by the Chairman of the Executive Branch, who shall meet the qualifications for the vacated position and whose appointment shall be confirmed by majority vote of the Legislature. The term of any Judge so appointed and confirmed to fill the vacancy shall be until the next regular general election for any Tribal Court Judge position, at which time the vacated position shall be filled by election for the remaining term of the vacated position.

(2) The Chairman shall submit any appointment to fill a vacancy to the Legislature for confirmation within thirty (30) days following the Chairman's appointment to fill the vacancy. If the Legislature is not in a regular Session when the Chairman submits the appointment, a Special Session shall be held on the first Monday following the 30th day after the appointment. The Chairman's appointment shall not exceed sixty (60) days before confirmation by the Legislature.

Chapter VIII. ELECTION OF TRIBAL COURT JUDGES.

3-8-101. Terms and Election Times. The Chief Judge and the Associate Judges shall be elected to 4-year terms beginning with the November 2005 election and every four years thereafter.

3-8-102. General Election Procedures. (1) Elections for Tribal Court Judges shall be conducted at the times and in accordance with the procedures for Legislative Elections as provided in the comprehensive Election Ordinance adopted pursuant to Article VI, Section 5 of the Tribal Constitution, codified in Title 21 of the Crow Law and Order Code, except as otherwise provided in this Chapter VIII. In the event of a conflict between the procedures specified in this Chapter and those in Title 21, the procedures specified in this Chapter shall govern.

(2) A candidate for judicial election shall file a properly executed Declaration of Candidacy with the Secretary of the Crow Tribe, along with a \$250 filing fee in the same manner as provided in Title 21, certifying that the candidate satisfies the qualifications set forth in this Title 3.

(3) The Secretary shall certify the qualifications of candidates for judicial election in the same manner as provided in Title 21 for the election of Executive Officers. Before certifying the candidates for judicial election, the Secretary will perform the additional child background and qualifications checks required by Sections 3-3-303 and 3-3-304.

(4) When judicial elections occur in a year in which only legislative elections are held, after the ballots are returned to Crow Agency as provided in Title 21, Article 8, Section 9, the Election Commission shall count the votes for judicial candidates in the same manner as provided for Executive elections.

(5) Among the candidates for Chief Judge, the two (2) candidates receiving the highest number of votes qualify as candidates for the General Election. No primary shall be held when there are only two (2) or fewer certified candidates for the office. The candidate receiving the highest number of votes in the General Election shall be certified as the elected Chief Judge.

(6) When two Associate Judges are being elected, the three (3) candidates receiving the highest number of votes in the Primary Election qualify as the candidates for Associate Judges in the General Election. No primary shall be held when there are only three (3) or fewer certified candidates for the two offices. The two (2) candidates receiving the highest number of votes in the General Election shall be certified as the elected Associate Judges.

3-8-103 Employment and Salaries of Tribal Court Judges. (1) The Chief Judge shall be paid an annual salary of \$50,000 per annum.

(2) An Associate Judge shall be paid an annual salary of \$40,000 per annum.

(3) The salary of any elected Tribal Court Judge shall not be diminished or reduced during the Judge's term of office. Subject to restrictions in grants and other outside funding sources, payment of compensation to the Tribal Court Judges shall have first priority on funds available to the Tribal Court.

(4) An Elected Tribal Court Judge (Chief or Associate) will not accept employment part or full from any other government or private firm during his or her tenure. Failure to adhere to this requirement will cause immediate suspension with pay until the Judicial Ethics Board determines the status of said alleged violation.

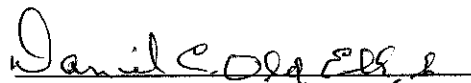
3-8-104 Insufficient Qualified Candidates for Election. If there is no qualified candidate for election to a Tribal Judge position, that position shall be deemed to be vacant and subject to appointment and confirmation as provided in Section 3-3-310.

3-8-105 Judicial Election Campaigns. In addition to the restrictions in Article XI of the comprehensive election ordinance in Title 21, candidates for judicial election shall adhere to the applicable provisions of the ABA Model Code of Judicial Ethics relating to election of judges.

Section 2. Upon enactment of this Bill by the Crow Tribal Legislature and approval of the Chairman of the Executive Branch, the foregoing amendments are hereby adopted, with an immediate effective date.

CERTIFICATION

I hereby certify that this Bill, AN ACT PROVIDING FOR JUDICIAL ELECTIONS AND QUALIFICATIONS, was duly enacted by the Crow Tribal Legislature with a vote of 12 in favor, 1 opposed, and 1 abstained and that a quorum was present on this 26th day of July, 2005.


Speaker of the House
Crow Tribal Legislature

ATTEST:


Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby

approve

veto this Bill:

“AN ACT PROVIDING FOR JUDICIAL ELECTIONS AND QUALIFICATIONS” pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section 8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this 16 day of AUG, 2005.



Carl E. Venne, Chairman
Crow Tribal Executive Branch

Bill or Resolution Number CLB 0514 Introduced by: Executive Date of Vote 7-26-05
 Representative

	Yes	No	Abstain
B. Cloud	_____	_____	_____
C. Goes Ahead	<u>✓</u>	_____	_____
O. Costa	<u>✓</u>	_____	_____
V. Crooked Arm	<u>✓</u>	_____	_____
R. Iron	<u>✓</u>	_____	_____
J. Stewart	<u>✓</u>	_____	_____
E. Fighter	<u>✓</u>	_____	_____
L. Costa	_____	<u>✓</u>	_____
L. Hogan	<u>✓</u>	_____	_____
D. Old Elk	<u>✓</u>	_____	_____
K. Real Bird	_____	_____	_____
E. Pease	<u>✓</u>	_____	_____
S. Medicine Horse	<u>✓</u>	_____	_____
L. Not Afraid	<u>✓</u>	_____	_____
P. Real Bird	<u>✓</u>	_____	_____
D. Wilson	_____	_____	_____
J. Stone	_____	_____	<u>✓</u>
<i>Secretary of the House</i>	_____	_____	_____
W. Plain Feather	_____	_____	_____
<i>Speaker of the House</i>	_____	_____	_____
Totals:	<u>12</u>	<u>1</u>	<u>1</u>

Results of Vote: Passed Not Passed Tabled Veto Override

Signature of Officer: Daniel C. Old Elk Date: July 26, 2005
-Speaker Pro Tem.

Correction made by D. Oldenk
"Copy" - 8-2-05

JULY 2005 CROW TRIBAL LEGISLATURE

BILL NO. _____

**INTRODUCED BY CARL E. VENNE, CHAIRMAN
CROW TRIBAL EXECUTIVE BRANCH**

**A BILL FOR AN ACT ENTITLED "AN ACT TO AMEND THE COMPREHENSIVE
ELECTION ORDINANCE"**

WHEREAS, Article IV, Section 1 of the Constitution and Bylaws of the Crow Tribe (the "Constitution") provides that Tribal Executive Branch Officers shall be elected in accordance with an Election Ordinance duly adopted by the Crow Tribe; and

WHEREAS, Article V, Section 1 and Article VI, Section 2 of the Constitution provide that after the initial election of the Legislature in 2001, the members of the Legislative Branch shall be elected in a duly adopted Election Ordinance; and

WHEREAS, Article VII of the Constitution provides that special elections to fill vacancies in the Executive and Legislative Branches shall be conducted in accordance with a duly adopted election ordinance; and

WHEREAS, Article VI, Section 5 of the Constitution and Bylaws of the Crow Tribe requires the Legislative Branch to adopt a comprehensive election ordinance prescribing procedures for the conduct of elections, nominations, secret balloting, and resolving election disputes, and that such ordinance shall include provisions regarding the conduct of recall and referendum elections; and

WHEREAS, Article XII of the Constitution provides that the process to propose amendments to the Constitution shall be defined by the Legislative Branch in legislation which complies with Article XII; and

WHEREAS, the Tribal Legislature enacted and the Chairman approved a comprehensive Election Ordinance on September 29, 2003, as Act No. CLB03-08, and subsequently enacted in the April 2004 Session and approved the current amended comprehensive Election Ordinance as Act No. CLB04-05; and

WHEREAS, certain amendments are necessary to clarify the comprehensive Election Ordinance for purposes of the upcoming elections in October 2005

NOW, THEREFORE, BE IT ENACTED BY THE CROW TRIBAL LEGISLATURE:

ADOPTION: Section 1. The following section of the comprehensive Election Ordinance is hereby amended to read as follows:

ARTICLE II-VOTER QUALIFICATION AND IDENTIFICATION

SECTION 1-ELIGIBILITY

- 1) Crow Tribal General Council members who are eighteen (18) years of age or older at the time of election shall be eligible to vote in any election of the Executive and Legislative Branches and initiative, referendum, and recall elections.
 - a) The Enrollment Office shall provide 6 copies of a current enrollment book for purposes of determining voter eligibility.
- 2) District voter registration shall not apply to Executive, initiative, referendum or recall elections.
- 3) District voter registration lists shall be enforced during the district Legislative elections. See Section 2 below.
- 4) All individuals seeking to vote must provide valid proof of his/her identification. A Crow Tribal Identification card is presumed to be valid.
- 5) The Secretary of the Crow Tribe shall be responsible for maintaining an updated list of all eligible voters, based on the enrollment book for Executive, initiative, referendum and recall elections and based on the district voter registration lists for District Legislative elections. The Secretary shall also establish a voter registration guide for each district.

SECTION 2 VOTER REGISTRATION FOR DISTRICT LEGISLATIVE ELECTIONS

- 1) Selecting a District: A member must vote in only one (1) district during the primaries and general Election Day. Under no circumstances may a voter cast a ballot in more than one district for the same election. Members who wish to vote in an election must choose a district in which to vote by registering in that district.
- 2) Timing of Registration: In order to vote in district Legislative elections, Eligible tribal members must register to vote in a particular district by

completing a voter registration form (see appendix A). Registration forms may be completed at any time up to five (5) days before an election to permit the registration list to be printed and distributed to the polling places. Registration shall resume on Election Day and Enrolled members who register on Election Day shall be entitled to vote in that election. Registration forms will be available from the Tribal Secretary's office.

- 3) **Registration List:** The Secretary shall maintain a comprehensive list of all registered voters. Upon receipt of a voter registration form, the Secretary shall verify that the registrant is an eligible voter, and if so, add the individual to the voter registration list within the same working day and provide the voter with a registration card. The registration list must be kept current at all times and must be kept in a secure location. Registration will be closed five (5) days before the election to permit the registration list to be printed and distributed to the polling places. The Tribal Secretary shall update the voter registration list immediately following the election. If any individual's registration is rejected, the person must be notified of the reason for the rejection within seven (7) days of the determination of ineligibility, in writing.
- 4) **Changing District Registration:** Prior to Election Day a registered voter seeking to change the district in which he or she is registered, may do so by filing a new voter registration form and checking the appropriate box. Once a member is registered in a particular district, he or she may change his or her district registration once without any time constraints, except that he or she may not change districts between the Primary and General Elections in an election year. However, after changing his or her district, he or she may not change his or her district again for a period of four (4) years from the date of the initial change.

SECTION 3-ELECTION DAY PROCEDURES

- 1) **Executive, Initiative, Referendum and Recall Elections:** In order to cast a ballot on Election Day, and election judge will verify the name of the person against the current tribal enrollment book. An eligible person must sign the enrollment book(s) at the polling place.
- 2) **Legislative Elections:** In order to cast a ballot on Election Day, and election judge will verify the name of the person against the current tribal voter registration list. An eligible person must sign both the registry and enrollment book(s) at the polling place in their district. To be allowed to vote in any district, an eligible person's name must appear on that districts' voter registration list, on election day. If a person's name appears on another district's voter registration list that person will be referred to the district, and will be allowed to vote in that district.

SECTION 4-PENALTY FOR CASING MORE THAN ONE BALLOT

- 1) Within ninety six (96) hours of each election, the election judges will cross check the lists of persons voting at each polling place to determine if any individual has voted in more than one district in the same election. If an individual has voted more than once, the Election commission shall file a complaint with the Tribal Prosecutor against such person.
- 2) If convicted, a violator may be subject to a fine, not to exceed \$1,000 or jail time, not to exceed one year in the Crow Tribal Jail.
- 3) The Crow Tribal Court shall have final authority to assess fines and impose sentences.
- 4) In addition to the individual penalties prescribed above, the Election Commission shall decide if the voter fraud described above necessitates a new election, under the standards contained in Article IX, Section 2 herein

ARTICLE XII – OTHER AND PRIOR ELECTION ORDINANCES

- (1) Tribal Court Judges. This Election Ordinance only applies to elections for Tribal Court Judges in accordance with Article X of the Constitution as specified in Title 3 of the Crow Law and Order Code.

REPEALER: Section 2. Upon enactment of this Bill and approval of the Chairman of the Executive Branch, the foregoing amendments are hereby adopted with an immediate effective date.

CERTIFICATION

I hereby certify that this Bill, _____, was duly enacted by the Crow Tribal Legislature with a vote of _____ in favor, _____ opposed, and _____ abstained and that a quorum was present on this _____ day of _____, 2005.

Speaker of the House
Crow Tribal Legislature

ATTEST:

Secretary, Crow Tribal Legislature

EXECUTIVE ACTION

I hereby
_____ approve

_____ veto this Bill:

“AN ACT TO AMEND THE COMPREHENSIVE ELECTION ORDINANCE “
pursuant to the authority vested in the Chairman of the Crow Tribe by Article V, Section
8 of the Constitution and Bylaws of the Crow Tribe of Indians, on this ____ day of
_____, 2005.

Carl E. Venne, Chairman
Crow Tribal Executive Branch