

Mille Lacs Band Statutes Annotated

Amendments received through: May 14, 2004

TITLE 14 - CAPITAL IMPROVEMENTS

CHAPTER 1

CAPITAL IMPROVEMENTS AUTHORITY

Section

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Historical and Statutory Notes

The Preamble of Band Statute 1234-MLC-53 provides:

"It is enacted by the Band Assembly of the Mille Lacs Band of Chippewa Indians a statute to establish and empower the Mille Lacs Capital Improvements Authority. "

Band Statute 1234-MLC-53, § 7 provides:

"Section 7. Severability. If any provision of this Chapter or its application to any person or set of circumstances is held invalid, the remainder of the Chapter or its application to other persons or circumstances shall not be affected."

§ 1. Establishment

The Mille Lacs Capital Improvements Authority of the Mille Lacs Band of Chippewa Indians is established as an instrumentality of the Executive Branch of Tribal Government with these powers expressly delegated by the Band Assembly. The Capital Improvements Authority of the Mille Lacs Band of Chippewa Indians is established to acquire, construct, finance, operate and maintain such public improvements of the Band as may from time to time be designated by the Band Assembly.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 1.

§ 2. Board of Commissioners

(a) The affairs of the Capital Improvements Authority shall be managed by a Board of Commissioners comprised of five persons. The Board members shall be nominated by the Chief Executive and ratified by the Band Assembly.

(b) The Chief Executive shall select three among the Board members who shall serve a four year term, and two who shall serve a two year term. Subsequent appointments after these terms expire shall run for four years. At least one member of the Board shall be a Band member residing in District 1; at least one member of the Board shall be a Band member residing in District 2; at least one member of the Board shall be a Band member residing in District 3. Each member shall hold office until a successor has been nominated and ratified.

(c) The Chief Executive shall name one of the Board members as Chair of the Board. The Board shall select from among its own members a Vice-Chair, a Secretary and a Treasurer, and any member may hold two of these positions. In the absence of the Chair, the Vice-Chair shall preside, and in the absence of both the Chair and the Vice-Chair, the Secretary shall preside.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.

Cross References

Designation of Band districts, see 2 MLBSA § 11.

§ 3. Removal of Board members

A member of the Board may be removed from office for just cause as defined by 4 MLBSA § 15(g).

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.03.

§ 4. Compensation

The Board members shall not receive compensation for their services but shall be entitled to reasonable reimbursement for their expenses, including travel expenses, incurred in the discharge of their duties.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.04.

§ 5. Quorum

A majority of the full Board shall constitute a quorum for the transaction of business, but no Board action shall be taken by a vote of less than a majority of the full Board.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.05.

§ 6. Records of Board meetings and actions

The Secretary shall keep full and accurate records of all meetings and actions taken by the Board. Records kept in accordance with this section shall be prima facie evidence of the information contained therein before any court of competent jurisdiction.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.06.

§ 7. Financial records and reports

The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete annual report in written form to the Band Assembly.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.07.

§ 8. Meetings

Meetings of the Board shall be held as deemed appropriate with an agenda prepared in advance by the Chair. All proceedings of the Board shall be open to the public except when an executive session is authorized by unanimous vote of the Board. All proceedings shall be documented in writing and copies distributed to the Chief Executive and Band Assembly not more than five days following each meeting. Meetings may be held upon twenty-four hours actual notice.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 2.08.

§ 9. Enumerated powers

The Capital Improvements Authority shall have the following specifically enumerated powers:

- (a) To adopt and use an official seal;
- (b) Subject to Band Assembly approval, to enter any contracts or agreements with any governmental agency, Federal, State, local or tribal, or with any person, partnership, corporation or Indian tribe; and to agree to any conditions attached to Federal or State financial assistance;
- (c) To lease property from the Band and others for such periods and to hold and manage or to sublease the same;
- (d) To borrow or lend money, to guarantee the obligations of other tribal entities of the Band, and to issue evidences of indebtedness in accordance with 14 MLBSA § 10;
- (e) Subject to Band Assembly approval, to pledge the assets and receipts of the Authority as security for debts;
- (f) Subject to Band Assembly approval, to acquire, construct, sell, lease as lessor or lessee, exchange, transfer or assign real or personal property or interests therein;
- (g) To purchase land or interests in land or take the same by gift, and to lease land or interests in land to the extent provided by law;

- (h) To prudently invest such funds as are not required for immediate disbursement;
- (i) To establish and maintain such bank accounts as may be necessary or convenient;
- (j) To employ such officers and employees, permanent or temporary, as the Authority may require, and to delegate to such officers and employees such powers and duties as the Board deems proper;
- (k) To adopt bylaws which shall be submitted to the Band Assembly for approval; and
- (l) To take such further actions as are necessary to carry out the purposes as described in 14 MLBSA § 1.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 3

§ 10. Borrowing

(a) Subject to the limitations set forth in this Section, the Authority shall have the power to borrow money and incur indebtedness, or to guarantee the indebtedness of another agency, instrumentality or entity of the Band, by issuing its obligations, in its own name or in the name of and on behalf of the Mille Lacs Band of Chippewa Indians, for purposes of acquiring, constructing, maintaining, managing and improving any public improvements within the territorial jurisdiction of the Band consistent with the purposes of the Authority. Such obligations shall be issued and sold in such manner and shall be in the amount and form and bear interest at the rate or rates set by the Authority. Each obligation must be approved by the Band Assembly prior to its issuance.

(b)(1) All obligations incurred under this Section shall be payable solely:

(A) from revenues, income, receipts and profits derived by the Authority from projects operated by it whether or not the projects were financed in whole or in part with the proceeds of such obligations;

(B) from all or any part of the revenues of any business conducted by the Corporate

Commission and allocated to the Authority
by the Band Assembly;

(C) from the proceeds of evidences of
indebtedness issued and sold by the
Authority which are payable solely from any
of such revenues, income, receipts and
profits; or

(D) from federal or state grants or other
money received by the Authority which are
available therefor.

(2) The Authority may further secure these obligations with
any assets of the Authority as the Authority may
specifically pledge to the payment of the obligations.

(c) The Authority may pledge to the repayment of any such obligations
and the interest coming due thereon any or all of the sources set forth in
subsection (b), but is without power to pledge or encumber any other
revenues, income or assets of the Mille Lacs Band of Chippewa Indians,
or any other organization or instrumentality of the Band to the repayment
of such obligations. The Band Assembly may, if it deems it to be in the
best interests of the Band to do so, pledge to the payment of any such
obligations, or authorize any organization or instrumentality of the Band
to pledge to the payment of such obligations, any specific revenues,
income or assets of the Band or any organization or instrumentality of the
Band as it may deem appropriate. In any event, no such obligations shall
be payable from, nor be a charge upon, any funds other than the revenues
specifically pledged to the payment thereof, nor shall the Band be liable
thereon other than to the extent specifically provided in accordance with
this section. These limitations shall be expressly stated in each obligation
issued pursuant to this section.

(d) The Authority, with the approval of the Band Assembly, may provide
for the refunding of any obligation of the Authority through the issuance
of other obligations of the Authority, entitled to rights and priorities
similar in all respects to those held by the obligations that are refunded.

(e) In connection with the issuance of any such obligation, the Authority is
authorized to waive its sovereign immunity from suit should an action be
commenced to enforce the terms of the obligation, and to consent to the
jurisdiction of the courts of the United States of America or the State of
Minnesota in connection with any such action; provided that the Authority
is without power to waive the sovereign immunity of the Mille Lacs Band
of Chippewa Indians, to consent to the jurisdiction of any court over the

Band, or to consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged pursuant to subsection (c).

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 4.

§ 11. Sovereign immunity

(a) As an instrumentality of the Mille Lacs Band of Chippewa Indians, the Authority shall be clothed by federal and tribal law with all the privileges and immunities of the Band, except as specifically limited by this chapter, including sovereign immunity from suit in any state, federal or tribal court. Nothing contained in this chapter shall be deemed or construed to be a waiver of sovereign immunity by the Authority from suit, which may be waived only in accordance with this chapter.

(b) Sovereign immunity of the Authority may be waived only by formal resolution of the Board of Commissioners.

(c)(1) Waivers of sovereign immunity are disfavored and shall be granted only when necessary to secure a substantial advantage or benefit to the Authority. Any waiver of sovereign immunity shall be specific and limited as to:

(A) duration,

(B) the grantee,

(C) the particular transaction,

(D) definite property or funds, if any, of the Authority,

(E) a particular court having jurisdiction pursuant thereto and

(F) the law that shall be applicable thereto.

(2) Any express waiver of sovereign immunity by resolution of the Board shall not be deemed a waiver of the sovereign immunity of the Mille Lacs Band of Chippewa Indians, a consent to the jurisdiction of any court over the

Band, or a consent to the levy of any judgment, lien or attachment upon any property or income of the Authority, the Band or any other organization or instrumentality of the Band other than that specifically pledged or assigned.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 5.

§ 12. Assets and liabilities of the authority

(a) The Authority shall have only those assets specifically assigned to it by the Band or acquired in its name by the Band or the Authority on its own behalf. Nothing in this Chapter nor any activity of the Authority shall implicate or in any way involve the credit or assets of the Band or obligate the Band for the obligations of this Authority except for any liability or obligation specifically assumed in writing.

(b) The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority are exempt from all taxes and special assessments of the Band Assembly or the Band. However, for construction projects, nothing in this section shall prevent the Band from collecting the general sales tax contained in 22 MLBSA § 502, or the public service occupations tax contained in 22 MLBSA § 601.

(c) All property of the Authority, including funds acquired or held by the Authority pursuant to this chapter, shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial powers shall issue against the same nor shall any judgment against the Authority be a charge or lien upon such property. The provisions of this section shall not apply to or limit the right of a secured party to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its revenues or properties.

(d) Upon dissolution of the Authority, the title to all property owned by it shall vest in and become the property of the Band.

Historical and Statutory Notes

Source: Band Statute 1234-MLC-53, § 6.