

Mille Lacs Band Statutes Annotated

Amendments received through: May 14, 2004

TITLE 4 - EXECUTIVE BRANCH

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Historical and Statutory Notes

The Preamble of Band Statute 1142-MLC-3 provides:

"WHEREAS, in 1981 the Non-Removable Mille Lacs Band of Chippewa Indians, in a historic step, adopted a form of government based on the principal of division of powers, and,

"WHEREAS, that form of government has proven to be highly satisfactory, but experience with the large body of law which was necessary to establish the system has revealed a number of flaws and ambiguities and,

"WHEREAS, The Band Assembly has determined to improve Band government of adopting an entire Code of government, revising and replacing the former Code, NOW THEREFORE, IT IS ENACTED BY THE BAND ASSEMBLY:"

Band Statute 1142-MLC-3, §§ I and 2 provide:

"Section 1. Purpose. The purpose of this act is to promote the general welfare of the Non-Removable Mille Lacs Bands of Chippewa Indians and its members by establishing duties, purposes and procedures for the conduct of domestic and external affairs of the Band by a form of government based upon the principle of division of powers. This statute is enacted by the authority vested in the Mille Lacs Reservation Business Committee under Article VI, Section 1 of the Constitution of the Minnesota Chippewa Tribe.

"Section 2. Scope of Amending Provision. The provision of Band Statutes 1001-MLC-1, 1008-MLC-1, 1032-MLC-1, 1033-MLC-1, 1039-MLC-1 are hereby repealed in their entirety and replaced by the provisions of this act, except that:

"Section 2.01. The provisions of Band Statute 1032-MLC-1, Section 28, relating to the authorities of the Commissioner of Corporate Affairs shall be transferred and hereinafter referenced by Band Statute 1077-MLC-16, Section 5.

"Section 2.02. The provisions of Band Statute 1032-MLC-1, Section 29, relating to the authorities of the Commissioner of Natural Resources shall be transferred and hereinafter referenced by Band Statute 1030-MLC-22, Section 32."

Cross References

Band government identification cards, see 22 MLBSA § 308.

Bribery, see 24 MLBSA § 1203.

Consolidated Nay-Ah-Shing School Board as independent subdivision of Executive Branch, see 9 MLBSA § 1.

§ 1. Definitions

The following words shall have the meanings herein subscribed:

(a) The "Band" shall mean the Non-Removable Mille Lacs Bands of Chippewa Indians.

(b) The "Band Statute" shall mean the codified laws of the Non-Removable Mille Lacs Bands of Chippewa Indians

(c) "Commissions" shall mean the legal papers which authorize an officer of the Non-Removable Mille Lacs Bands of Chippewa Indians to hold official office in the governmental structure of the Band.

(d) The "Constitution" shall mean the Constitution of the Minnesota Chippewa Tribe.

(e) "Domestic affairs" shall mean the internal concerns of the five constituent Bands which comprise the Non-Removable Mille Lacs Bands of Chippewa Indians and their people.

(f) "External affairs" shall mean the matters of trade, commerce and interaction and general relations with governments, corporations, Indian tribes or bands or citizens of the United States of America.

(g) "Letters of credence" shall mean the legal papers which authorize an officer of the Non-Removable Mille Lacs Band of Chippewa Indians to conduct external affairs on behalf of the Band.

(h) The "Members" shall mean the enrolled members of the Non-Removable Mille Lacs Bands of Chippewa Indians.

(i) The "People" shall mean the enrolled members of the Non-Removable Mille Lacs Bands of Chippewa Indians.

(j) The "Tribe" shall mean the Minnesota Chippewa Tribe.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 28.

§ 2. Executive political authority

All executive political authority of the Non-Removable Mille Lacs Bands of Chippewa Indians shall be vested in the Executive Branch of government. The leader of the Executive Branch shall be the popularly-elected tribal chairman, whose title shall be Chief Executive. The Chief Executive is the officer referred to in the Constitution as the Chairman. Unless otherwise specified by Band Statute, all Executive Branch authority shall be exercised by the Chief Executive.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 3.

Cross References

Chairman, Reservation Business Committee, see Const. Art. 3, § 2.

Division of powers, see 2 MLBSA § 3.

Functions of government authority, see 2 MLBSA § 4.

§ 3. Powers and duties of the Executive Branch

It shall be the authority and duty of the Executive Branch to see that the laws of the Band are faithfully executed. The Executive Branch shall have power to:

- (a) Conduct relations with all other governments and their political subdivisions.
- (b) Negotiate and execute agreements, contracts, cooperative and reciprocity agreements, memoranda of understanding, on behalf of the Band, subject to ratification by the Band Assembly wherever required by Band statute.
- (c) Administer contracts and grants, cooperative and reciprocity agreements and memoranda of understanding, under the terms and conditions contained therein.
- (d) Prepare annual budget requests for all executive functions and submit the same to the Band Assembly for appropriation no later than September 1 of each calendar year.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 4.

Cross References

Appropriation bills prior to end of fiscal year, see 3 MLBSA § 18.

Fiscal year, see 3 MLBSA § 19.

Ratification of agreements by Band Assembly, see 3 MLBSA § 2.

§ 4. Executive officers

The executive officers of the Non-Removable Mille Lacs Bands of Chippewa Indians shall consist of the Chief Executive, Commissioner of Administration, Assistant Commissioner of Administration, Commissioner of Natural Resources, Commissioner of Education, Commissioner of Corporate Affairs, the Commissioner of Human Services, and Commissioner of Community Development.

Historical and Statutory Notes

Source:

Band Statute 1142-MLC-3, § 5.

Band Ordinance 20-97, § 1.

Cross References

Education department programs, delineation of responsibility, see Exec. Order 108-93.
Efficient operation of Band government and employment of Band members, see Exec. Order 104-92.
Vehicles owned by Band, maintenance and log books, see Exec. Order 109-93.

§ 5. Terms of office

The term of office of the Chief Executive shall be the term prescribed for the Chairman of the Reservation Business Committee in Article IV, Section 3 of the Constitution. The terms of office of the other executive officers shall be four years in duration commencing July 1, 1985.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 6.

§ 6. Powers and duties of Chief Executive

The Chief Executive shall have the following authority in exercising the executive powers of Band government:

- (a) To faithfully and impartially execute the laws, judicial determinations, orders and resolutions of the Band.
- (b) To appoint wherever authorized by Band Statute, executive officers, judges, heads of commissions, boards or authorities, legal and financial counsel and to make appointments to fill any vacancy in any office as authorized by Band Statute and subject to confirmation by the Band Assembly.
- (c) To conduct external relations with all other governments and their political subdivisions.
- (d) To recommend agreements, contracts, cooperative and reciprocity agreements and memoranda of understandings to the Band Assembly for ratification.
- (e) To issue proclamations and executive orders on any subject matter within the Executive Branch of government pursuant to the authority conferred by Band Statute. Such written statements shall be of uniform form and shall be numbered consecutively and/or effective expiration.
- (f) To act as the custodian of all Band property.

(g) To appoint executive committees, which may hold official hearings to assist the Chief Executive in conducting the duties of the office. Such executive committees shall have the power to issue subpoenas and cause them to be served and enforced consistent with the provisions of due process. All hearings of such committees shall be held in accordance with 4 MLBSA §§ 13 and 14.

(h) To sit in the Joint Session of the Band Assembly as provided by 3 MLBSA § 24.

(i) To present to the Band Assembly an annual State of the Band Address on the second Tuesday of January of each calendar year. The Chief Executive shall, from time to time, give information to the Band Assembly and recommend to their consideration such measures as he/she shall judge necessary and expedient.

(j) To call general and special elections upon the prior authorization of the Joint Session of the Band Assembly pursuant to the provisions of Article IV, Section 1 of the Constitution.

(k) To issue pardons and commutations of sentences to any individual convicted of a crime in the Court of Central Jurisdiction under such regulations and restrictions as may be prescribed by Band statute.

(l) To approve or veto any proposed law which shall have passed the Band Assembly pursuant to the regulations prescribed by 3 MLBSA § 16(c).

(m) To make rules and policies consistent with the provisions of Band statute.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 7.

Cross References

Capital Improvements Authority Board of Commissioners, see 14 MLBSA § 2.
Commissioner of Corporate Affairs, appointment, see 16 MLBSA § 2.
Consolidated Nay-Ah-Shing School Board, veto authority of Chief Executive, see 9 MLBSA § 28.
Corporate Commission, Board composition, see 16 MLBSA § 103.
Environmental Protection Commission, selection and terms of office, see 11 MLBSA § 3.
Exemption from provisions of personnel manual, see 6 MLBSA § 8.
Government facilities, utilization and security, see Exec. Order 033.
Housing Authority Board of Commissioners, appointment, see 12 MLBSA § 4.
Procurement, responsibilities of Chief Executive, see 7 MLBSA § 104.
Public Works Commission Board of Supervisors, see 13 MLBSA § 2.
Public Works Commission, enforcement of regulations, see 13 MLBSA § 15.
Ratification of agreements, contracts, etc., see 3 MLBSA § 2.
Review of proposed procurement actions, see 7 MLBSA § 6.

Sentence, criminal procedure, see 24 MLBSA § 4251 et seq.
Vehicles owned by Band, maintenance and log books, see Exec. Order 109-93.
Violation of Executive Orders, see 24 MLBSA § 1212.

§ 7. Powers and duties of executive officers

The executive officers shall have the following general authority in exercising subject matter authority conferred by Band statute:

- (a) To faithfully and impartially execute the laws of the Band and the policies of the Executive Branch of government.
- (b) To conduct external relations with their counterparts in the political subdivisions of other governments, pursuant to the prior authorization of the Chief Executive.
- (c) To authorize the expenditure of all appropriated funds within their subject matter jurisdiction.
- (d) To regulate the performance of their duties by all persons employed within their area of subject matter jurisdiction.
- (e) To advise the Chief Executive on all matters related to their subject matter jurisdiction, be it external or domestic.
- (f) To recommend the reorganization of any department within their subject matter jurisdiction as they may deem advisable in the interests of economy or efficiency.
- (g) To prescribe procedures for the development of policy in the area under their respective jurisdiction.
- (h) To issue commissioner's orders on any subject matter within their jurisdiction pursuant to the authority conferred by Band statute. Such written statements shall be uniform format, numbered consecutively and have effective and expiration dates affixed thereto.
- (i) To take such measures as are deemed necessary to prevent any action which threatens the well-being of programs within their respective jurisdiction, by the issuance of a formal commissioner's order.
- (j) To exercise any and all authority conferred pursuant to the provisions of any other Band statute.
- (k) To perform any duties as may be lawfully assigned by the Chief Executive.

(l) To represent the interests of the Chief Executive in matters within their respective subject matter jurisdiction before the Band Assembly.

(m) To represent the interests of the Executive Branch of Band government before any exterior governmental body as authorized and directed by the Chief Executive. No such representation shall occur by any commissioner unless the said commissioner shall present to the exterior governmental body his or her official letters of credence.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 8.

Cross References

Annulment of Commissioner's Orders, see 3 MLBSA § 17.

Commissioner of Finance, general powers and duties, see 22 MLBSA § 104.

Education department programs, delineation of responsibility, see Exec. Order 108-93.

Efficient operation of Band government and employment of Band members, see Exec. Order 104-92.

Great Lakes Indian Fish and Wildlife Compact, commissioner's orders, see 2 MLBSA § 1160.

Vehicles owned by Band, maintenance and log books, see Exec. Order 109-93.

Violation of Commissioner's Orders, see 24 MLBSA § 1212.

§ 8. Creation, powers and duties of Administration Policy Board

The Band Assembly hereby creates within the Executive Branch of Band government an entity which shall be known as the Administration Policy Board. The Administration Policy Board shall have the following powers, duties and responsibilities:

(a) To employ and contract with any individual in fulfilling the mandates of the Executive Branch of government.

(b) To administer through lawful activities all grants and contracts received by the Non-Removable Mille Lacs Band of Chippewa Indians for the benefit of the general welfare of the people of the Band. Such power to administrate the said grants and contracts shall be limited to acts which affect all grants and contracts regardless of particular subject matter. In the event that any particular administrative order shall affect only one subject matter, the authority of the commissioner for that subject matter shall prevail.

(c) To authorize the submission of proposals to any exterior entity for authorized grants and contracts which will benefit the general welfare of the people.

(d) To regulate the performance of all employees, including the hiring and dismissal of any employee, pursuant to the provisions of Band statute regulating civil service employees.

(e) To insure the lawful activities of any grant or contract within the Executive Branch of government.

(f) To recommend any measure to the Band Assembly for their consideration, upon the advice and consent of the Chief Executive.

(g) To negotiate all contracts and grants on behalf of the Executive Branch of Band government. All such negotiated contracts shall be subject to ratification by the Band Assembly.

(h) To perform all duties as assigned by the Chief Executive.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 9.

Cross References

Employment Rights Program, see 18 MLBSA § 401 et seq.

Government employees, see 6 MLBSA § 1 et seq.

§ 9. Membership and meetings of Administration Policy Board

(a) The Administration Policy Board shall consist of the following Executive Officers: the Commissioner of Administration, the Assistant Commissioner of Administration, the Commissioner of Natural Resources, the Commissioner of Education, the Commissioner of Human Services, and the Commissioner of Community Development. A quorum of four members of the Administration Policy Board shall be required for the transaction of any official business. In the event that the Administration Policy Board is unable to perform its duties due to lack of quorum, the Commissioner of Administration may issue a commissioner's order to implement any said matter. Any said commissioner's order issued under this circumstance, shall be valid only until the next official meeting of the Administration Policy Board.

(b) The Administration Policy Board shall be chaired by the Commissioner of Administration. The Commissioner of Administration shall prepare an agenda for the Administration Policy Board upon the advice and consent of the Chief Executive.

(c) The Administration Policy Board shall convene on the second Thursday of each month. Additional meetings may be held at any time thereafter upon notification by the Commissioner of Administration.

(d) All meetings of the Administration Policy Board shall be recorded and transcribed into writing. The minutes of the Administration Policy Board shall constitute prima facie evidence of the facts stated therein before any action in the Court of Central Jurisdiction or any other court of competent jurisdiction.

(e) Within five days after the convening of the Administration Policy Board, the approved official record of said meeting shall be transmitted to the Speaker of the Assembly who shall in turn present said record to the Band Assembly.

(f) The Chief Executive shall have veto authority over any action of the Administration Policy Board.

Historical and Statutory Notes

Source:

Band Statute 1142-MLC-3, §10.

Band Ordinance 20-97, § 2.

§ 10. Powers and duties of Commissioner of Administration

The Commissioner of Administration shall act as the Chief of Staff within the Executive Branch of Band Government. The Commissioner of Administration shall have the following authority:

(a) To act in the absence of any other commissioner.

(b) To act by and with the advice and consent of the Chief Executive.

(c) To sign by authorization all vouchers and expenditures of appropriated funds of the Executive Branch pursuant to the provisions of Band statute.

(d) To represent the interests of the Chief Executive in matters before the Band Assembly upon the direction of the Chief Executive.

(e) To be responsible for the preparation of the annual budget of the Executive Branch of Band government and for the submission of said budget to the Band Assembly no later than August 1 of each calendar year.

(f) To exercise all authority conferred pursuant to the provisions of any Band statute and any authority conferred by the Chief Executive.

(g) To delegate to the Assistant Commissioner of Administration any of the authority contained herein or in 4 MLBSA § 7 during the absence of the Commissioner of Administration or other executive officer.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 11.

§ 11. Executive Committees

The Chief Executive shall authorize, appoint and empower all executive committees pursuant to the issuance of an Executive Order.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 12.04.

§ 12. Executive hearings

(a) The Chief Executive is authorized to hold executive hearings for the following purposes:

- (1) The making of rules or policies consistent with the provisions of Band statute.
- (2) To adjudicate matters in controversy.
- (3) To investigate and inquire into matters affecting the general welfare of the Band or its organs of government.

(b) All executive hearings shall be held in accordance with 4 MLBSA § 13.

(c) The powers of subpoena shall be available to any executive hearing of inquiry. The executive hearing officer may issue subpoenas and cause them to be served and enforced. The opportunity to quash any subpoena for cause shall be available pursuant to a petition duly filed with the Court of Central Jurisdiction.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 12.

§ 13. Procedures for conduct of hearings of inquiry

(a) All executive hearings shall be conducted by a hearing officer appointed by the Chief Executive. The hearing officer shall be a justice of the Court of Central Jurisdiction or a suitable person knowledgeable in law and the Mille Lacs judicial philosophy.

(b) The hearing officer shall conduct the inquiry in a manner which is consistent with the Mille Lacs judicial philosophy of a search for truth and justice in the spirit of the Mille Lacs Bands. To that end the hearing officer shall conduct every session of the hearing as the principal investigator, questioning witnesses, calling for evidence to be produced and advising the parties and their legal representatives of the issues he is concerned with and inviting their views and assistance.

(c) Following questioning by the hearing officer the witness may make additional comments within the limits of relevancy and propriety adjudged by the hearing officer. Any other party or legal representative may then question the witnesses. Witnesses may be recalled at the discretion of the hearing officer if additional questions are raised.

(d) Hearings are to be held upon at least three days advance notice to the parties. Continuance shall be granted for good cause. Hearings shall be informal and there may be as many sessions as deemed necessary by the hearing officer to enable him to review all the evidence and hear the contentions of the parties.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 13.

Cross References

Band Assembly hearings of inquiry, see 3 MLBSA § 22.

Mille Lacs judicial philosophy, see 24 MLBSA § 2002.

§ 14. Decisions or orders after hearings of inquiry

The decisions or orders of the hearing panel, whether interim or final shall be in writing and shall contain the following:

(a) Names of the parties;

(b) Claims made by the parties;

- (c) Names of witnesses heard and documents or other evidence reviewed by the hearing officer;
- (d) The questions to be decided;
- (e) The facts found to be established by the evidence;
- (f) The law which governs the case; and,
- (g) The decision of the hearing officer including, whether any wrong or error was committed and if so, what remedy is being given.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 13.04.

Cross References

Band Assembly hearings of inquiry, see 3 MLBSA § 22.

§ 15. Recall of appointed officials

- (a) The Chief Executive upon receiving the two-thirds majority vote of the Joint Session of the Band Assembly, shall suspend the commission of any appointed officer, for just cause subject to final determination as provided for in subsection (e). Upon the suspension of any commission the rights, privileges and responsibilities to office are temporarily suspended.
- (b) The Chief Executive shall within 72 hours after receipt of entry of findings, notify the Speaker of the Assembly for the purpose of convening the Joint Session of the Band Assembly.
- (c) The Joint Session of the Band Assembly shall convene within 10 consecutive days after receipt of the decision of the hearing officer for the purpose of entering judgment for the discipline or removal of the officer who is the subject of the proceeding.
- (d) The officer shall appear before the Joint Session of the Band Assembly to enter into the record any final comments within the limits of relevancy and propriety.
- (e) The Joint Session of the Band Assembly shall by two-thirds majority vote render its final decision on the recall of the appointed officer. No appeal from the final decision of the Joint Session of the Band Assembly shall be available.

(f) In the event, the hearing officer rules in favor of the appointed officer, the Chief Executive shall reinstate the commission of the appointed officer within 72 hours after entry of findings and conclusions of law.

(g) For purposes of proceedings to recall an appointed officer, just cause shall mean:

(1) Any alleged violation of the Code of Ethics of the Non-Removable Mille Lacs Bands of Chippewa Indians or allegations of facts which, if true, would constitute malfeasance, misfeasance or nonfeasance in office or any other violation of the Code of Ethics.

(2) The issuance of formal criminal charges against an appointed officer by any court of competent jurisdiction;

(3) A violation of the oath of office;

(4) The unauthorized release of the privileged communications of the Band either written or oral.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 14.

Cross References

Benefits, effect of removal, see 6 MLBSA § 1006.

Capital Improvements Authority, removal of Board members, see 14 MLBSA § 3.

Code of ethics, establishment, see 2 MLBSA § 9.

Housing Authority, removal of Board members, see 12 MLBSA § 6.

Housing Authority projects, disclosure of interests, see 12 MLBSA § 25.

Public Works Commission Board of Supervisors, see 13 MLBSA § 2.

Removal of elected officials or appointees, see 3 MLBSA § 25.

§ 16. Legal Counsel

The Non-Removable Mille Lacs Band of Chippewa Indians shall have both Interior and Exterior legal counsel:

(a) The Interior Legal Counsel of the Band shall be known as the Solicitor General. The duly-appointed and confirmed Solicitor General shall be a member of the bar association of the Non-Removable Mille Lacs Bands of Chippewa Indians and shall represent the interest of the Executive Branch and the Band Assembly in all matters before the Court of Central Jurisdiction.

(b) The Exterior Legal Counsel in and for the Non-Removable Mille Lacs Bands of Chippewa Indians shall be a lawyer and/or a legal firm of the choice of the Chief Executive upon the advice and consent of the Band Assembly. The said Exterior Legal Counsel in and for the Band shall be a person or persons who is/are licensed to practice law in any state court of the United States or in any federal court of the United States. The Exterior Legal Counsel shall be employed pursuant to the provisions of a contract approved by the Secretary of Interior pursuant to the provisions of 25 U.S.C. § 81. The Exterior Legal Counsel may represent the interests of the Non-Removable Mille Lacs bands of Chippewa Indians in any matter before any court including the Court of Central Jurisdiction.

Historical and Statutory Notes

Source: Band Statute 1141-MLC-2, § 31.

§ 17. Appointment of Solicitor General

(a) The Chief Executive shall nominate and forward to the Band Assembly for confirmation the name of a competent and duly qualified individual of high honor and integrity to serve as the Solicitor General of the Non-Removable Mille Lacs Bands of Chippewa Indians.

(b) The Solicitor General shall serve a four-year term of office commencing May 1, 1987, and on this date every four years hence.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 15.

Cross References

Department of Justice members, see 24 MLBSA § 1053.

§ 18. Duties of Solicitor General

The Solicitor General shall have the following responsibilities, obligations and authority on behalf of the Non-Removable Mille Lacs Bands of Chippewa Indians:

(a) To represent the interests of the Non-Removable Mille Lacs Bands of Chippewa Indians in all legal proceedings in the Court of Central Jurisdiction and all other exterior courts of competent jurisdiction.

(b) To independently uphold the laws and executive, legislative, secretarial and commissioner's orders, judicial determinations, policies and

the terms of domestic assistance grants and contracts of the Band when consistent with the Constitution of the Minnesota Chippewa Tribe and the laws of the Non-Removable Mille Lacs Bands of Chippewa Indians.

(c) To initiate and defend any legal action necessary, that is or can be brought in or against the name of the Non-Removable Mille Lacs Bands of Chippewa Indians, to uphold the provisions of the Constitution of the Minnesota Chippewa Tribe and the laws of the Band or to protect the rights of the enrolled members of the Band.

(d) To interpret all laws and executive, legislative, secretarial and commissioner's orders and policies on behalf of the Non-Removable Mille Lacs Bands of Chippewa Indians.

(1) All said interpretations shall be titled in the form of Opinion of the Solicitor General, be consecutively numbered, dated as to the date of issuance, and contain the official seal of the Band.

(2) All said opinions of the Solicitor General shall have the force of law and shall be binding until annulled by the Court of Central Jurisdiction or amended pursuant to legislative order of the Band Assembly.

(e) To aid in drafting public bills, resolutions, orders, policies or amendments thereto on the request of the Chief Executive, Speaker of the Assembly or the Chief Justice. To certify to the ordinances of Band government and codify said ordinances into Band Statutes.

(f) To advise and assist the Chief Executive, the Band Assembly or the Court of Central Jurisdiction in the achievement of a clear, faithful, and coherent expression of the laws and policies of the Non-Removable Mille Lacs Bands of Chippewa Indians as prescribed by the standards of the office of Solicitor General in 4 MLBSA § 19.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 16.

Cross References

Annulment of Solicitor General opinions, see 3 MLBSA §17.
Commercial practices, representation by Solicitor General, see 18 MLBSA § 7.
Consolidated Nay-Ah-Shing School Board, Solicitor General obligations, see 9 MLBSA § 30.
Department of Justice, powers and duties of Solicitor General, see 24 MLBSA § 1054.
Employee Credit Union, representation by Solicitor General, see 17 MLBSA § 19.
Environmental protection
Civil actions, see 11 MLBSA § 17 et seq.

Liberal construction of law, see 11 MLBSA § 31.
Great Lakes Indian Fish and Wildlife Compact, obligations of Solicitor General, see 2 MLBSA § 1108.
Human Resources Division cases, obligations of Solicitor General, see 8 MLBSA § 17.
Motor vehicle licensing law, implementation by Solicitor General, see 19 MLBSA § 1.
Motor vehicles, representation by Solicitor General, see 19 MLBSA § 14.
Tobacco products, revocation, cancellation or suspension of license of distributor or retailer, see 22 MLBSA § 211.
Use of information, commercial practices, see 18 MLBSA § 9.
Violation of Solicitor General's Opinions, see 24 MLBSA § 1212.

§ 19. Legal standards of office of Solicitor General

(a) The Solicitor General shall have the duty of advocating whatever position he concludes is required by Band Statute in the event of any conflicts within the Executive and or between the Executive and Legislative branches of Band government. The Solicitor General shall maintain an attorney-client relationship with respect to all communications between him/her and the Chief Executive and any member of the Band Assembly.

(b) The Solicitor General's first duty under law is to uphold the laws of the Non-Removable Mille Lacs Bands of Chippewa Indians and the confidentiality of communications between the Chief Executive and members of the Band Assembly and the Solicitor General.

(c) In the event that litigation or representation in litigation is requested by any executive officer, the Solicitor General shall notify the Speaker of the Assembly and afford him/her an opportunity to object to the legal service requested. The Speaker of the Assembly shall have five days from the date of notification to respond. In the event that the Speaker shall object to the request or fail to respond, the Solicitor General shall independently consider the merits of the issue based solely upon the applicable laws of the Band and notify both parties as to his/her representation decision.

(d) In the event that litigation or representation in litigation is requested by the Speaker of the Band Assembly, the Solicitor General shall notify the Chief Executive and afford him/her an opportunity to object to the legal service request. The Chief Executive shall have five days from the date of notification to respond. In the event that the Chief Executive shall object to the request, or fail to respond, the Solicitor General shall independently consider the merits of the issue based solely upon the applicable laws of the Band and notify both parties as to his/her representation decision.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 17.

§ 20. Legal responsibilities of Solicitor General in capacity of prosecutor

The Solicitor General in a criminal case shall:

- (a) Make no prosecution that he knows is not supported by probable cause;
- (b) Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, a legal officer and has been given reasonable opportunity to obtain a legal officer;
- (c) Not seek to obtain from an unrepresented accused a waiver of important civil rights, including procedural rights;
- (d) Make timely disclosure to the legal officer for the accused all evidence of information known by the Solicitor General that tends to negate the guilt of the accused or mitigates the offense and, in connection with sentencing, disclose to the legal officer for the accused and the Court all unprivileged mitigating circumstances known to the Solicitor General.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 18.

Cross References

Criminal procedure, see 24 MLBSA § 4001 et seq.

Equal protection and due process of law, see 1 MLBSA § 8.

Individual rights during judicial proceedings, see 1 MLBSA § 6.

Self-incrimination in criminal proceeding, see 1 MLBSA § 4.

§ 21. Immunity of Solicitor General

The Solicitor General shall be immune from civil liability arising from the true and faithful performance of his/her lawful acts and deeds in the Court of Central Jurisdiction or any other court of competent jurisdiction.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 19.

Cross References

Suits against Band officials, see 24 MLBSA § 701.

§ 22. Office commissions

No appointed and confirmed officer of the Non-Removable Mille Lacs Bands of Chippewa Indians shall exercise any powers of the office to which they were appointed unless and until they have received an official commission executed by the Chief Executive and witnessed by the Speaker of the Assembly. All said commissions shall state the date of expiration of the commission.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 20.

§ 23. Letters of credence

No appointed officers of the Executive Branch shall represent to any other person the interests of the Non-Removable Mille Lacs Bands of Chippewa Indians, unless he shall first exhibit a letter of credence executed by the Chief Executive and witnessed by the Speaker of the Assembly. All said letters of credence shall state the date of expiration.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 21.

Cross References

Letters of credence, see Exec. Orders 031 , 032.

§ 24. Executive privilege and immunity

(a) The Chief Executive shall be immune from liability brought against him or her for acts performed or remarks made or spoken in the lawful conduct of Band affairs. Proceedings of confidential meetings with his advisors and subordinates and confidential communications of the Chief Executive are privileged and not subject to disclosure. This shall not, however, preclude judicial review, in the proper case, of the constitutionality or legality of acts and decisions taken by the Chief Executive nor shall it preclude any proper removal hearing in accordance with the provisions of Article X of the Constitution.

(b) Executive privilege shall not extend to any appointed officer of the Non-Removable Mille Lacs Bands of Chippewa Indians. Such officers shall however, be immune from personal liability for acts performed in good faith in the scope of their official duties.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 22.

Cross Reference

Suits against Band officials, see 24 MLBSA § 701.

§ 25. Interpretation of title

Should there be any doubt as to the proper interpretation of any part of this title, the Chief Executive may submit such question to the Solicitor General who shall give his/her written opinion thereon, and any such opinion shall be binding unless annulled, in whole or part, by the Court of Central Jurisdiction or amended by the Band Assembly pursuant to enactment of law.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 23.

§ 26. Construction of title

The Solicitor General and the Court of Central Jurisdiction shall liberally construe the provisions of this title so as to provide for achievement of the purposes thereof.

Historical and Statutory Notes

Source: Band Statute 1142-MLC-3, § 24.