



**THE MILLE LACS BAND OF
OJIBWE INDIANS**

43408 Oodena Drive, Onamia, MN 56359
(320)532-7894 F (320)532-7836

Office of the Solicitor General

CERTIFICATE OF CORRECTNESS

WHEREAS, on August 8, 2013, the Mille Lacs Band of Ojibwe Band Assembly (“Band Assembly”) approved, and the Chief Executive signed into law, Ordinance 40-13, to amend Title 26 (Compensation of Elected Officials) to amend the compensation, severance, and pension plan for the Chief Executive, Secretary-Treasurer, and District Representatives of the Non-Removable Mille Lacs Band of Chippewa Indians; and

WHEREAS, pursuant to 4 MLBS § 18(e), the Solicitor General is responsible to “certify to the ordinances of Band government and codify said ordinances into Band Statutes[;]” and

WHEREAS, Band statutes do not currently provide any additional guidelines or requirements on how Band ordinances should be codified into Band statutes;” and

WHEREAS, according to MINN. STAT. 3C.11 (2019), the State of Minnesota Revisor’s Office issues certificates of correctness after comparing any amended sections of state statutes with previous editions as a method of ensuring that the law is properly reflected in statutes available to the public;

NOW, THEREFORE, as the Band’s Solicitor General, I hereby attest to having compared the enclosed version of Title 26 with any previous versions and certify as to the correctness of the enclosed version.

Enclosures

1. Title 26 – Compensation of Elected Officials
2. Ordinance 40-13


Caleb Dogeagle
Solicitor General

OFFICIAL SEAL OF THE BAND



Ordinance 40-13

An Ordinance amending the Act known as the Compensation of Elected Officials and numbered in the Mille Lacs Band Statutes as Title 26 that encompasses the compensation, severance and pension plan for the Chief Executive, Secretary-Treasurer and District Representatives.

The District I Representative introduced the following Bill on the 8th day of August, 2013.

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Title 26 (previously amended by Bill 15-02-73-12) referred to as the Compensation of Elected Officials numbered in the Mille Lacs Band Statutes as Title 26.

Title 26 Compensation of Elected Officials

Section 1. Amendment. Title 26 of Mille Lacs Band Statutes is hereby amended and replaced as follows.

Section 2. Definitions. The terms defined in this Bill shall have the meanings given them in this section.

- (a) "Beneficiary" means the individual(s) that is named on the Beneficiary Designation Form by the former elected official to receive any remaining severance and/or pension amount upon the death of the former elected official.
- (b) "Elected Officials" mean the Chief Executive, Secretary-Treasurer, and the District Representatives.
- (c) "Elective Office" means the positions held by the duly elected Chief Executive, Secretary-Treasurer, and District Representatives.
- (d) "Length of Service" means the years, months, weeks, and days, that a duly elected official has been in elective office. This time shall be calculated consecutively as well as non-consecutively taking into account any breaks of service. The time shall be calculated from the date the elected official takes the oath of office to the date that an official vacates elective office.

- (e) "Pension" means the monthly amount, based on length of service in elective office, that an individual is deemed qualified to receive after leaving elective office.
- (f) "Pensioner" means a former elected official who is eligible to receive a pension.
- (g) "Pension Loan" means a loan made to a current elected official or former elected official that is capped at 50% of his/her vested amount, but no more than \$20,000.00, according to the terms of this Pension Plan.
- (h) "Retirement" means the time after the date that an elected official has officially vacated his/her office for retirement purposes.
- (i) "Salary" means the gross annual rate of pay of elected officials for their employment with the Band calculated before any deductions.
- (j) "Severance" means the monthly payment representing 80% of the former elected official's salary that is paid to the former elected official in the first six (6) months after leaving office.
- (k) "Vacate or vacating" means that an elected official no longer holds elective office for any reason.
- (l) "Years of Service" means the number of years an elected official serves in any elective office either consecutively or non-consecutively.

Section 3. Administration. The Commissioner of Finance shall administer the provisions of this Bill and he/she shall also supply annual reports to the Band Assembly and Chief Executive to ensure that the Plan remains fully funded.

Section 4. Salary, salary increases, effective date.

(a) Newly elected officials, current elected officials, and those returning to elected office shall receive a salary based on the elective office held and the total number of years of service in any elective office.

(b) Salary levels shall be adjusted annually for each respective elected office in accordance with the following:

(1) Chief Executive.

First Year: \$175,000.00

To be adjusted annually in the amount of \$5,000.00.

(2) Secretary-Treasurer.

First Year: \$175,000.00

To be adjusted annually in the amount of \$5,000.00.

(3) District Representatives.

First Year: \$150,000.00

To be adjusted annually in the amount of \$5,000.00.

(c) Salary is not to exceed \$240,000.00 after annual adjustments regardless of years/terms of service.

(d) Effective date. This salary system is effective for any elected official in office on or after July 10, 2012.

Section 5. Severance.

(a) Former elected officials shall, for a period of six (6) months after vacating office, receive a monthly severance equal to eighty percent (80%) of the salary they received in their last month in elective office. If a former elected official dies prior to the end of the six (6) month period, the obligation to pay severance shall be payable to his/her designated beneficiary.

(b) Effect of recall, removal, or conviction. An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary, embezzlement, fraud, or other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their severance reduced, denied or terminated by majority vote of the Joint Session. Such denial of a severance is final and may not be appealed to the Court of Central Jurisdiction.

(c) Severance pay may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe.

(d) Effective date. This section is effective for any elected official in office on or after July 10, 2012, with the exception of any restriction as noted in subsection (b) above.

Section 6. Pension.

(a) Former elected officials shall receive a monthly pension for the total cumulative number of years in elective office in the amount prescribed in subsection (d) of this section beginning on the first day of the seventh (7th) month after vacating elective office. Each elected official qualified to receive a pension shall designate a beneficiary on the Beneficiary Designation Form and such form shall be kept in a confidential file in the office of the Commissioner of Finance.

(b) Former elected officials shall qualify for a pension based on the total cumulative number of years served in any elective office according to the dollar amount shown in subsection (d) below.

(c) No pension while in elective office. If an elected official who has been receiving or is scheduled to receive a pension returns to elective office, his/her pension shall be suspended until the elected official vacates elective office. This sub-section is not intended to include those amounts that an elected official may access as per the Pension Loan guidelines in Section 7 of this bill.

(d) Pension amount. Former elected officials shall receive the following pensions:

Total cumulative years of service:	<u>1-2</u>	<u>over 2</u>
Monthly pension, plus interest:	\$1,500	\$2,500

(e) Effect of recall, removal, or conviction. An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary, embezzlement, fraud, or other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their pension reduced, denied or terminated by majority vote of the Joint Session. Such denial of a pension is final and may not be appealed to the Court of Central Jurisdiction.

(f) Effect of Death of Former Elected Official. If a former elected official dies prior to the end of his/her pension entitlement period, any remaining monthly payments shall be payable to his/her designated beneficiary as named on the Beneficiary Designation Form. In the case of an individual beneficiary, if the beneficiary dies prior to the end of the Band's obligation to pay the monthly pension payments to the beneficiary, the Band's obligation shall end as of the beneficiary's date of death and no further payments will be made. If two or more beneficiaries are designated, the surviving beneficiaries shall be paid the full, or equal to 100%, of the remaining monthly payments.

(g) Judicial and administrative garnishment. Pensions may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe.

(h) It is the intent of this section to have an effective date of July 9, 2002, the date that the pension plan for elected officials was initially approved. However, the effective date of the Beneficiary Designation Form shall be June 1, 2013. It is not intended that this Pension Plan be retroactive for any former elected official who was not in office on this Bill's initial effective date of July 9, 2002.

Section 7. Pension Loan.

- (a) Former and current elected officials may apply in writing to the Commissioner of Finance for a loan up to an amount equaling 50% of his/her vested pension, but never more than \$20,000.00.
- (b) All Pension Loans must be paid back to the Pension fund over a period of the lesser of: (1) five (5) years; or (2) the former or current elected official's remaining severance or pension term as of the loan date. The Commissioner of Finance will accept such payments on behalf of the Band.
- (c) Any former or current elected official who requests a Pension Loan must sign a promissory note to the Band.
- (d) Interest on the Note will be charged according to the Wells Fargo Bank N.A.'s prime borrowing rate in effect at the Note's inception.
- (e) Interest earned on the Note would be credited to the pension account.
- (f) There shall be only one Pension Loan in effect at any one time. Additional borrowings would require consolidation of old and new amounts into a new Note with new terms according to this Ordinance.
- (g) Monthly payments of principal and interest on the Note will be withheld against the former or current elected official's pension, severance, per capita and/or payroll payments.
- (h) The Commissioner of Finance will be responsible for administering the granting of and collections on Pension Loans according to the terms of this Ordinance.
- (i) The effective date of this section is May 22, 2012.

Section 8. Withholding of taxes. The Commissioner of Finance shall withhold all taxes as required by applicable law.

Section 9. Notice of pension and/or severance amount, timing of benefit, reduction, denial or termination.

(a) General notice of amount and timing of benefit.

The Commissioner of Finance shall notify a pensioner or former elected official, within sixty (60) days after vacating elective office, of their eligibility for a pension and/or severance. The notice shall contain the amount of the pension and/or severance, timing of periodic payment, and other pertinent information.

(b) Notice for reduction, denial, or termination.

The Commissioner of Finance shall notify a pensioner or former elected official in writing in the event of any change in the amount or timing of their pension and/or severance, or if a pensioner or former elected official is to have a pension and/or severance denied or terminated. The notice shall contain the reasons for the change, denial, or termination.

Section 10. Amendment. In regard to compensation, the elected officials reserve the right to review and amend the compensation plan in even numbered years after July 10 of that year. Any amendments to the severance or pension language may be made in any year. The pension plan is a fully funded plan and is intended to remain as such.