

Band Assembly Bill 21-04-41-25

A Bill for an Act amending Title 15, chapter 4 to comprehensively reform the Band's Tribal Employment Rights Office code, adding a section related to holiday pay and a section related to complaints against the TERO Director. A public comment period has been held on a previous version of this Bill (20-03-27-23) in February of 2023.

The District I Representative introduced the following Bill on the 27th day of August, 2025.

BE IT ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE LACS BAND OF OJIBWE:

Section 1. Amending Title 15, chapter 4, subchapter 1.

§ 1001. Policy and Findings.

(a) It is the policy of the Band to provide a preference in employment and contracting to members of the Band and other federally recognized ~~Indian~~Native American tribes, and to prioritize the hiring of certain individuals within the preferred group.

(1) This policy applies to employment and contracting by the Band's government, including all branches, departments, and agencies thereof; by all Band-owned entities while they are engaged in commercial or economic activities on behalf of the Band ~~within the Band's~~son or near the Reservation; and by all persons and entities doing business with the Band, including subcontractors of persons or entities contracting with the Band, ~~within the Band's~~son or near the Reservation.

(2) This policy: ~~(A)~~ is intended to further the Band's overriding interests in self-government, self-sufficiency, and economic development; ~~(B)~~ is directed to the participation of the governed in the Band's governing bodies and in its commercial and economic activities; ~~(C)~~ is intended to make the Band's government and its commercial and economic activities more responsive to the needs of its constituents; and ~~(D)~~ is intended to provide for the economic security and employment of members of the Band and of other federally recognized ~~Indian~~Native American tribes and to overcome the effects of past discrimination against such persons.

(3) Economic insecurity and unemployment are serious impediments to the health, morale, and welfare of the Band. Employment and contracting opportunities with the Band's government, Corporate Ventures, and with Band-owned entities and other persons and entities doing business with the Band ~~within the Band's~~son or near the Reservation, are important resources for members of the Band and of other federally recognized ~~Indian~~Native

American tribes, who have historically suffered from discrimination in employment and contracting opportunities. As a result, ~~Indian~~Anishinaabe and Indigenous people living on or near the Band's Reservation have unique and special employment rights under federal law, and the Band is obligated to implement those rights.

- (b) Subject to the policy described in subsection (a) of this section, all employees subject to the Band's jurisdiction are entitled to a workplace environment that prohibits employment discrimination, and nepotism, protects employees' wages, and promotes health and safety.
- (c) The provisions of this chapter are critically important to the health and welfare of members of the Band and of other federally recognized ~~Indian~~Native American tribes, especially those residing on or near the ~~Band's~~ Reservation. Unemployment and underemployment rates within the boundaries of the ~~Band's~~ Reservation are consistently many times higher than the national and state averages. This pervasive unemployment and underemployment ~~has~~have directly contributed to serious social problems and a lower quality of life for members of the Band and of other federally recognized ~~Indian~~Native American tribes residing on or near the ~~Band's~~ Reservation and impeded the self-governance objectives of the Band.
- (d) The Band declares that the public good and the welfare of the Band require the enactment of this chapter, which is enacted pursuant to the Band's inherent sovereign and political powers, in order to increase employment of and the number of businesses owned by members of the Band and of other federally recognized ~~Indian~~Native American tribes, ~~especially within the Band's Reservation~~, and to protect the workforce rights of Indian Anishinaabe or Indigenous employees and non-~~Indian~~Native employees within the jurisdiction of the Band.

§ 1002. Purpose.

This chapter is adopted by the ~~Mille Lacs Band of Ojibwe (the Band)~~Band, under its inherent sovereign and political powers, for the following purposes:

- (a) to promulgate Band laws and ~~rules~~regulations governing employment relations and contracting preference within the Band's jurisdiction;
- (b) to establish the Band's Tribal Employment Rights Office (~~TERO~~) in order to enforce the Band's laws governing employment preference and priority and contracting preference, and to protect the rights of all members of the Band, members of other federally recognized ~~Indian~~Native American tribes, and all other employees within the Band's jurisdiction;
- (c) to increase the employment of members of the Band and of other federally recognized ~~Indian~~Native American tribes;

- 93
- 94 (d) to eradicate employment discrimination, protect employees' wages, and protect
- 95 employees' health and safety within the Band's jurisdiction;
- 96
- 97 (e) to provide a fair, enforceable, and effective system of preferences and priorities in
- 98 contracting and sub-contracting as it relates to the provision of supplies, services,
- 99 labor, and materials to the Band's government and to Band-owned entities and other
- 100 persons or entities doing business with the Band, including subcontractors of persons
- 101 or entities contracting with the Band, ~~within the Band's~~ son or near the Reservation;
- 102 and
- 103
- 104 (f) to supersede all other provisions of Band law that are inconsistent with the
- 105 provisions of this chapter.
- 106
- 107

108 **§ 1003. Severability.**

109

110 If any provision of this chapter, or the application thereof to any person, business, corporation,

111 circumstance, or government, including any agency or political subdivision thereof, ~~or~~

112 ~~circumstance~~, is held invalid, the invalidity shall not affect any other provision or application of

113 this chapter that can be given effect without the invalid provision or application, and to this end

114 the provisions of this chapter are declared severable.

115

116

117 **§ 1004. Definitions.**

118

119 Unless otherwise provided in this section, all words in this chapter shall be construed according

120 to their ordinary meaning. The following terms are defined for purposes of this chapter.

121

- 122 (a) **"Adverse action"** means an action taken to try to keep an individual from opposing
- 123 a discriminatory practice or from participating in an employment discrimination
- 124 proceeding. Adverse actions include termination, refusal to hire, denial of promotion,
- 125 threats, unjustified negative evaluations, unjustified negative references, increased
- 126 surveillance, or any other action, such as assault or unfounded civil or criminal
- 127 charge, that are likely to deter reasonable people from pursuing their rights.
- 128
- 129 (b) **"Anishinaabe" or "Indigenous" or "Native" or "Native American"** refers to a
- 130 member of a federally recognized Native American tribe.
- 131
- 132 ~~(a)~~(c) **"Anishinaabe or Indigenous certified entity"** means an entity, certified by the
- 133 TERO Commission, in which 51 percent or more of the ownership interests are held
- 134 by one (1) or more Anishinaabe or Indigenous persons and in which daily
- 135 management and control is provided by one (1) or more Anishinaabe or Indigenous
- 136 persons.
- 137
- 138 ~~(b)~~(d) **"Band"** means the Mille Lacs Band of Ojibwe, a federally recognized ~~Indian~~ Native
- 139 American tribe, and includes the Band's government, including all branches,

- 140 departments and agencies thereof, ~~and all Band-owned entities while they are~~
141 ~~engaged in commercial or economic activities on behalf of the Band within the~~
142 ~~Band's Reservation. For purposes of this chapter, the term "Band" does not include~~
143 ~~Corporate Ventures.~~
- 144
- 145 ~~(e)~~(e) **"Commission"** or **"TERO Commission"** means the Commissioner of the Tribal
146 ~~Employee~~Employment Rights Office.
- 147
- 148 (f) **"Commission Member"** or **"Member"** means a director serving on the TERO
149 Commission, appointed under § 1011 of this chapter.
- 150
- 151 (g) **"Compliance plan"** means a document submitted by all covered employers and
152 approved by the TERO Director. The compliance plan describes the necessary
153 qualifications for each position subject to this chapter and further details the steps
154 that covered employers will take to ensure full TERO compliance.
- 155
- 156 ~~(d)~~(h) A **"Conflict of Interest"** means a situation that occurs when a TERO Commission
157 Member is in a position to influence a decision that may result in a personal gain
158 for that Member or for a Member of his or her immediate family.
- 159
- 160 ~~(e)~~(i) **"Core crew"** means regular, permanent employees in supervisory or other key
161 positions where an employer would face serious financial loss if the positions were
162 filled by persons who had not previously worked for that employer.
- 163
- 164 (j) **"Corporate Ventures"** means Mille Lacs Corporate Ventures (formerly known as
165 the Corporate Commission of the Mille Lacs Band of Ojibwe) as established by 16
166 MLBS § 101 et seq., and its subsidiaries.
- 167
- 168 ~~(f)~~(k) **"Covered employer"** means the Band and any entity, company, contractor, sub-
169 contractor, corporation, or other business doing business on or near the Reservation
170 with the Band or Mille Lacs Corporate Ventures, including subcontractors of persons
171 or entities contracting with the Band or Mille Lacs Corporate Ventures, within the
172 Band's Reservation that employs for wages or other remuneration two (2) or more
173 employees. Corporate Ventures is considered a covered employer under this chapter
174 unless otherwise designated.
- 175
- 176 ~~(g)~~(l) **"Days"** means calendar days, including holidays and weekends, unless otherwise
177 indicated.
- 178
- 179 ~~(h)~~(m) **"Director"** or **"TERO Director"** means the director of the Band's Tribal
180 Employment Rights Office.
- 181
- 182 ~~(i)~~(n) **"Disability"** means, with respect to an individual:
- 183
- 184 (1) a physical or mental impairment that substantially limits one (1) or more major
185 life activities of such individual;

(2) a record of such an impairment; or

(3) the state of being regarded as having such an impairment.

An impairment does not have to be permanent to rise to the level of a disability. Temporary impairments that take significantly longer than normal to heal, long-term impairments, or potentially long-term impairments of indefinite duration may be disabilities if they are severe.

~~(j)~~—~~“EEOC” means the federal Equal Employment Opportunity Commission.~~

~~(k)~~~~(o)~~ **“Elected Officials”** means the Mille Lacs Band Chief Executive, Secretary-Treasurer, and District Representatives.

~~(l)~~~~(p)~~ **“Immediate Family”** ~~includes~~means a person’s spouse, a person’s biological or adopted child, a member of a person’s household, and a person’s mother, father, and sister, and ~~brothers~~siblings.

~~(m)~~—~~“Indian” means a member of a federally recognized Indian tribe.~~

~~(n)~~—~~“Indian Certified Entity” means an entity, certified by the TERO Commission, in which fifty one percent (51%) or more of the ownership interests are held by one (1) or more Indians and in which daily management and control is provided by one (1) or more Indians.~~

~~(q)~~ **“Nepotism”** means personally hiring, employing, promoting, transferring, upgrading, or recalling an immediate family member who works for the Band or for Corporate Ventures.

~~(r)~~ **“Reasonable Cause”** means facts or actions that would lead a reasonable person to conclude that a violation has occurred given the totality of the circumstances.

~~(s)~~~~(s)~~ **“Reservation”** means all lands within the exterior boundaries of the Mille Lacs ~~Indian Band~~ Reservation as established by the Treaty of 1855, 10 Stat. 1165, all lands held in trust by the United States for the benefit of the Minnesota Chippewa Tribe, the Band or individual members of the Band, which are subject to the jurisdiction of the Band, and all lands owned by the Band which are located within one of the districts designated in 2 MLBS § 11.

~~(t)~~ **“Substantial benefit”** means a significant and appreciable advantage or positive outcome.

~~(u)~~~~(u)~~ **“TERO”** means the Band’s Tribal Employment Rights Office established by this chapter.

232
233 **Section 2. Amending Title 15, chapter 4, subchapter 2.**
234

235 **§ 1011. TERO Commission and Recusal of Commission Members.**
236

- 237 (a) **TERO Commission Members.** ~~The TERO shall be managed by the TERO~~
238 ~~Commission is a governing board and shall provide oversight of TERO in accordance~~
239 ~~with this chapter.~~ At all times there shall be at least one (1) ~~commission M~~member on
240 the Commission from each Band district established by 2 MLBS § 11. The
241 Commission shall consist of seven (7) ~~commission M~~members as appointed under
242 paragraph (1) below. Four (4) Board Members shall constitute a quorum.
243

244 (1) Appointment Process; Terms.
245

- 246 (i) The Chief Executive shall nominate four (4) individuals and submit
247 their names to the Secretary-Treasurer. Within ten (10) calendar days
248 after receipt of the nominations by the Secretary-Treasurer, the
249 Secretary-Treasurer shall ratify two (2) of the four (4) nominees to be
250 a Member of the Board.
251
252 (ii) Each District Representative shall nominate two (2) individuals and
253 submit their names to the Chief Executive. Within ten (10) calendar
254 days after receipt of the nominations by the Chief Executive, the
255 Chief Executive shall ratify one (1) of the two (2) nominees to be a
256 Member of the Board.
257
258 (iii) The Secretary-Treasurer shall nominate four (4) individuals and
259 submit their names to the Chief Executive. Within ten (10) calendar
260 days after receipt of the nominations by the Chief Executive, the
261 Chief Executive shall ratify two (2) of the four (4) nominees to be a
262 Member of the Board.
263
264 (iv) If the Chief Executive or the Secretary-Treasurer do not ratify one (1)
265 from any of the nominations sent to them within the time prescribed,
266 then the Band Assembly shall select such member by majority vote.
267
268 ~~(i)(v)~~ (v) If any elected official does not submit a nomination within 30
269 calendar days after a vacancy has occurred, then the Band Assembly
270 shall nominate two (2) individuals by majority vote and submit their
271 names to the Chief Executive for ratification to the Board within ten
272 (10) calendar days of receipt.
273
274 (vi) No member shall take office until swearing to the oath of office
275 pursuant to 2 MLBS § 8.
276

277 ~~(2)(vii) Each member shall be appointed using the following process: The~~
278 ~~elected officials shall each nominate two (2) individuals and submit~~
279 ~~their names to the Mille Laes Band Parliamentarian. The Chief~~
280 ~~Executive and Secretary-Treasurer of the Band shall each nominate~~
281 ~~two (2) additional individuals and submit their names to the Mille Laes~~
282 ~~Band Parliamentarian. Within ten (10) calendar days after receipt of~~
283 ~~the nominations, the elected officials shall convene and vote on one (1)~~
284 ~~of the two (2) nominees submitted from each elected official to be a~~
285 ~~member of the Commission. Members appointed by the Chief~~
286 ~~Executive and District 1 Representative shall serve until December 1,~~
287 ~~2018, and Members appointed by the Secretary-Treasurer, District II~~
288 ~~Representative, and District III Representative shall serve until~~
289 ~~December 31, 2020. Any subsequent appointment, other than to fill a~~
290 ~~vacancy that occurs prior to the end of a term, shall be for four (4)~~
291 ~~years.~~

292
293 ~~(3)(2) **Qualifications.** Commissioners~~ Commission Members shall be public officials
294 ~~subject to the Mille Laes Band's Title 6 Ethics Code in 6 MLBS §§ 1151-~~
295 ~~1163. At least three (3) of the Commissioners~~ Members shall have education
296 ~~or experience in one (1) or more of the following areas:~~

- 297
298 (i) human resources;
299
300 (ii) tribal employment rights;
301
302 (iii) construction management;
303
304 (iv) career development and training;
305
306 ~~(iv)(v)~~ regulatory enforcement; or
307
308 (vi) auditing or investigations.
309

310 ~~(4)(3) **Officers.** The TERO Commission Members shall select a Chairperson, Vice-~~
311 ~~Chairperson, and Secretary at the first meeting of the Commission, and~~
312 ~~annually thereafter. The Chairperson shall preside at all meetings of the~~
313 ~~Commission and shall be authorized to sign required documents in~~
314 ~~accordance with the powers of the Commission.~~

315
316 (b) **Recusal of Commission Members.** When confronted with a conflict of interest,
317 TERO Commission Members shall announce the nature of the conflict and recuse
318 themselves from any corresponding vote.
319

320
321 **§ 1012. Powers and Duties of the TERO Commission, and; Compensation.**
322

- (a) The TERO Commission has the full power, jurisdiction, and authority:
- (1) to take all actions necessary and appropriate to implement the provisions of this chapter;
 - (2) to interpret this chapter and any regulations adopted hereunder, subject to judicial review;
 - ~~(2)~~(3) to approve or reject any and all ~~rules, regulations, and guidelines~~ formulated by the ~~D~~irector to carry out the provisions of this chapter and to approve or reject the amendment or rescission of any such ~~rules, regulations, or guidelines~~, provided that, except when an emergency exists, the TERO Commission shall provide the public an opportunity to comment at a meeting of the TERO Commission before approving any such ~~rules, regulations, or guidelines~~ or amendments or rescissions thereof;
 - (4) to approve or reject the use of TERO funds through the approval of the TERO budget, with ratification by the Band Assembly and Chief Executive under 3 MLBS § 3(b), and any subsequent amendments or modifications that may be required to carry out the provisions of this chapter;
 - ~~(3)~~(5) to conduct hearings in accordance with such rules of practice and procedure as may be adopted by the TERO Commission after providing the public an opportunity to comment ~~on them~~ at a meeting of the TERO Commission;
 - ~~(4)~~(6) to order any relief or sanctions authorized by this chapter, and to petition the ~~Mille Laes Band's~~ Court of Central Jurisdiction for such orders to enforce the decisions of the TERO Commission and any sanctions imposed by the TERO Commission, if necessary;
 - ~~(5)~~(7) to make recommendations to the Band Assembly ~~on~~regarding amendments to this chapter;
 - ~~(6)~~(8) to establish a system for certifying firms as ~~Indian~~Anishinaabe or Indigenous-Owned bBusinesses or ~~Mille Laes Band-o~~Owned businesses;
 - ~~(7)~~(9) to maintain a list of ~~c~~Certified bBusinesses;
 - ~~(8)~~(10) to assist enrolled Band ~~m~~Members in obtaining certification;
 - ~~(9)~~(11) to ensure the TERO Director is coordinating training and mentorship programs for enrolled Band ~~m~~Members and ~~Indians~~Anishinaabe or Indigenous people;
 - ~~(10)~~(12) to monitor all contracting activities on Band ~~I~~Lands in consultation with the elected officials;

(13) to inform the Band Government, Band Entities, Employers, and Contractors and assist in presentations to the public on the requirements of this chapter with respect to Indian Anishinaabe or indigenous employment and contact preference and priority requirements;

(14) to oversee the Certified Businesses receiving invitations to bid on contracts;

(15) to ~~establish~~ ensure the TERO director establishes, oversees, and regularly updates a comprehensive Band labor surplus pool and refers enrolled Band members and other Indians Anishinaabe or Indigenous people to an Employer or Contractor for employment considerations;

(16) to assist procurement officers or delegated agents in the designation of contracts appropriate for the set aside program;

(17) to develop and maintain an audit and reporting system which measures the effectiveness of the ~~Indian Preference Policy~~ preference and priority policy in this chapter in meeting its employment preference and priority goals and objectives;

(18) to establish procedures for TERO's regulatory proceedings;

(19) to establish procedures, forms, and policies necessary to carry out the purposes of the chapter; and

(20) to enforce any employment and procurement laws and regulations, ~~policies, and procedures~~ in accordance with this chapter.

(21) **Compensation.** Commission ~~Members~~ may receive a stipend for attendance at regular and special meetings in the amount of \$400.00 per meeting, but payment of such stipend shall be limited to two (2) meetings per month ~~their services at a rate established by the Band Assembly.~~ Commissioners Members shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses, in a manner consistent with applicable Band policies and procedures. Compensation for the attendance of trainings and conferences shall be considered a separate meeting for each day.

§ 1013. Tribal Employment Rights Office; Director.

There is hereby established the Tribal Employment Rights Office as an agency of the ~~Mille Laes Band of Ojibwe~~ government ~~the Tribal Employment Rights Office (also known as "TERO")~~. The TERO Director ~~of the TERO~~ shall be an employee of ~~the~~ TERO under the direct

supervision of the TERO Commission and shall have the powers and duties prescribed in § 1014 of this subchapter.

§ 1014. Powers and Duties of TERO Director.

The Director shall have the following powers and duties:

- (a) to formulate, amend, and rescind regulations ~~and~~, rules, ~~and~~ guidelines necessary to carry out the provisions of this chapter, subject to the approval of the ~~Board~~ Commission;
- (b) to implement and enforce the provisions of this chapter, as well as any properly adopted regulations, ~~rules, guidelines, and orders~~;
- (c) to hire staff, expend designated funds from ~~an approved~~ a budget approved by the TERO Commission, with ratification by the Band Assembly and Chief Executive under 3 MLBS § 3(b), and obtain and expend funding from federal, state, and other sources;
- (d) to maintain a list of current ~~c~~Covered ~~e~~Employers, current employer permits and work permits issued, and current ~~Indian~~ Anishinaabe or Indigenous ~~c~~Certified ~~e~~Entities;
- (e) to maintain a record of all contracting projects subject to this chapter and the TERO fees assessed for each project;
- (f) to approve or deny compliance plans submitted by covered employers;
- ~~(f)~~(g) to process applications for certification of ~~Indian~~ Anishinaabe or Indigenous ~~c~~Certified ~~e~~Entities by the ~~Board~~ Commission;
- ~~(g)~~(h) to grant TERO permits and collect TERO fees as authorized by this chapter, and to report to the Commission on a quarterly basis the total fees collected as well as the fee amounts collected from each employer;
- (i) to report quarterly at a Band Assembly meeting and to the Chief Executive's Office on a quarterly basis the total fees collected as well as the fee amounts collected from each employer;
- ~~(h)~~(j) to establish training, mentorship, and workforce development programs, in conjunction with the ~~Millie Laes~~ other Band Department of Labor programs, for Band members and other ~~Indians~~ Anishinaabe or Indigenous people to assist them in obtaining and retaining employment;

- (k) to establish and maintain a Band labor surplus pool and refer enrolled Band members and other Anishinaabe or Indigenous people to an employer or contractor for employment considerations;
- (l) to process applications for and maintain a list of Band members and other IndiansAnishinaabe or Indigenous people living on or near the Reservation who are available for employment and to assist such persons with job placement; and
- (m) to contract with federal and state entities for the provision of additional job procurement services and funding consistent with the purposes of this chapter.
- (n) to coordinate training and mentorship programs for enrolled Band members and Anishinaabe or Indigenous people;
- (o) to determine when the Band or MLCV has engaged in nepotism and to pursue a remedy pursuant to this Chapter; and
- (p) to permit nepotism as defined in § 1004(q) when doing so would provide a substantial benefit to the Band or MLCV, subject to ratification by the TERO Commission.

§ 1015. Intergovernmental Relationships.

The TERO Commission, acting through the Director, is authorized, ~~with the written concurrence of the Commissioner of Administration,~~ to enter into cooperative relationships with federal employment rights agencies, ~~such as including but not limited to the EEOC~~ federal Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs (OFCCP), and with state employment rights agencies, such as the Human Rights Commission, in order to eliminate discrimination against ~~Indians~~ Anishinaabe or Indigenous people on and off the Reservation, as well as to develop training programs for ~~IndiansAnishinaabe or Indigenous people~~. The Director may also, ~~with the written concurrence of the Commissioner of Administration,~~ enter into cooperative relationships with federal agencies, including but not limited to the Bureau of Indian Affairs, the Department of Labor, the Federal Highway Administration, and the Internal Revenue Service, in order to implement any federal employment or other workforce rights, authorities, or requirements as such agency may lawfully delegate to the Band.

Section 3. Amending Title 15, chapter 4, subchapter 3.

§ 1021. ~~Indian~~Anishinaabe or Indigenous Preference and Priority in Employment.

- (a) All covered employers shall give preference to Anishinaabe or Indigenous ~~Indians~~ people living on or near the Reservation in the hiring, promotion, training, and all other aspects of employment ~~within the boundaries of~~ on or near the Reservation,

provided that these individuals have the necessary qualifications. The priority for ~~Indian~~Anishinaabe or Indigenous hiring preference is as follows:

(1) Mille Lacs Band Member;

(2) First generation Band member descendant;

~~(2)(3)~~ member of another federally recognized ~~Indian~~Native American Tribe; and

~~(3)(4)~~ all others.

(b) Every covered employer shall encourage ~~Indians~~Anishinaabe or Indigenous people to seek promotional opportunities. For every opening in a supervisory position, the employer shall inform ~~Indian~~Anishinaabe or Indigenous workers about the position and encourage them to apply.

(c) No covered employer shall be permitted to maintain a position that no employment opportunities exist in the fulfillment of any said contract in order to evade the provisions of this section. The covered employer shall develop a goal statement which is subject to advance approval by the TERO ~~D~~irector prior to the commencement of any work. Additionally, no goal statement shall be approved which contains less than fifty percent (50%) for each construction operation in ~~Indian~~Anishinaabe or Indigenous employment opportunities pursuant to any contract.

§ 1022. Covered Employer's Responsibilities.

(a) Covered employers shall notify the TERO Director of openings in employment positions subject to this chapter and provide job descriptions for such openings at or before the time ~~at in~~ which they advertise the openings. Job descriptions shall not be written in a way to unnecessarily exclude Band members or other ~~Indians~~ Anishinaabe or Indigenous people from employment.

(b) All covered employers shall define in writing the necessary qualifications for each employment position in their work force that is subject to this chapter, which shall be provided to the TERO Director as part of their compliance plans and to applicants upon request.

(c) All covered employers shall comply with this chapter, all ~~rules and~~ regulations relating to it, and all guidelines and orders of the TERO Director.

(d) The requirements in this chapter shall not apply to any direct employment by the ~~F~~ederal or a state government or their agencies or subdivisions. However, such requirements shall apply to all contractors or grantees of such governments and to all

- commercial enterprises operated by such governments when they are doing business with the Band ~~within~~ on or near the ~~the~~ Reservation.
- (e) Covered employers shall include and specify an ~~Indian~~ Anishinaabe or Indigenous employment preference and priority policy statement in all job announcements and advertisements and all employer policies that are subject to this chapter.
- (f) Covered employers shall post in a conspicuous place on their premises for their employees and applicants an ~~Indian~~ Anishinaabe or Indigenous preference and priority policy notice prepared or approved by the TERO Director.
- ~~(g)~~ Covered employers, except for construction contractors, shall ~~advertise and announce~~ notify the TERO Director of all openings in employment positions subject to this chapter for publication on the Mille Lacs Band Website.
- ~~(g)~~(h) Construction contractors, prior to starting work within the Reservation, shall provide a ~~TERO c~~ Compliance pPlan for the project to the TERO Director.
- ~~(h)~~(i) Covered employers shall use non-discriminatory job qualifications and selection criteria in filling employment positions subject to the requirements of this chapter. No covered employer shall use any job qualification criteria that serve as barriers to ~~Indian~~ Anishinaabe or Indigenous preference or priority in employment, ~~unless the covered employer can demonstrate that such criteria or requirements are required by business necessity.~~
- ~~(i)~~(j) Regardless of the qualifications of any non-~~Indian~~ Native applicant, any ~~Indian~~ Anishinaabe or Indigenous person who demonstrates the necessary qualifications for an employment position subject to this chapter:
- (1) shall be selected by covered employers in the case of hiring, promotion, transfer, upgrading, recall, and other employment opportunities with respect to such position; and
- (2) shall be retained by covered employers in the case of a reduction in force affecting a certain class of positions until all non-~~Indians~~ Natives employed in that class of positions are laid-off.
- ~~(k)~~ No covered employer shall be permitted to maintain a position that no employment opportunities exist in the fulfillment of any said contract in order to evade the provisions of this section. The covered employer shall develop a goal statement which is subject to advance approval by the TERO Director prior to the commencement of any work. Additionally, no goal statement shall be approved which contains less than fifty percent (50%) for each construction operation in Anishinaabe or Indigenous employment opportunities pursuant to any contract.

- (l) Corporate Ventures shall make active efforts to provide opportunities for hiring, career development, and promotion to Anishinaabe or Indigenous people, and shall report said efforts to the TERO Commission annually. For every opening in a supervisory position, the employer shall inform Anishinaabe or Indigenous workers about the position and encourage them to apply.
- (m) Corporate Ventures shall assist Band member employees in creating a career-development plan listing specific goals, and assisting the Band member employees in reaching their career development goals. Corporate Ventures shall obtain proof in writing from a Band member employee who declines to create a career development plan.

§ 1023. Core Crew.

- (a) Covered employers who contract with the Band or with Mille Lacs Corporate Ventures, may, if necessary, designate a core crew, which is exempt from the ~~Indian~~ Anishinaabe or Indigenous preference and priority requirements of this chapter.
- (b) If a core crew is necessary, such core crew shall not exceed twenty-five percent (25%) of the total employees of the project or jobsite, except as otherwise provided in subsection (c) of this section.
- (c) The TERO Director may, at ~~his or her~~ her or his discretion, grant a covered employer a larger core crew designation upon a satisfactory demonstration by the covered employer that a larger core crew is necessary due to unique or specialized positions that are essential for the operation of the business. A covered employer may appeal the decision of the Director to the ~~Board~~ TERO Commission.

§ 1024. ~~Indian~~ Anishinaabe or Indigenous Preference in Contracting.

- (a) To the extent provided in § 1026 of this chapter, all covered employers shall give preference in contracting and subcontracting to ~~Indian~~ Anishinaabe or Indigenous certified entities.
- (b) If one (1) or more qualified ~~Indian~~ Anishinaabe or Indigenous certified entities submit a bid that is within ten percent (10%) percent of the lowest competitive bid, the covered employer shall give ~~one of the~~ qualified ~~Indian~~ Anishinaabe or Indigenous certified entities submitting such a bid the opportunity to negotiate an acceptable bid.
- (c) In accordance with §§ 1012 and 1014 of this chapter, the TERO Director shall formulate and the ~~Board~~ Commission shall approve regulations providing guidance on implementing the requirements of this section and for implementing

~~Indian~~Anishinaabe or Indigenous contracting preference when the awarding entity uses a method other than competition to select a contractor.

- (d) Whenever feasible, the covered employer shall submit to the ~~TERO D~~irector, at least ~~thirty~~ (30) days in advance of the deadline for the submission of bids for a contract or subcontract, a list of all related contracts and subcontracts contemplated by the covered employer in order to enable the ~~D~~irector to give ~~Indian~~Anishinaabe or Indigenous ~~c~~Certified ~~e~~Entities the opportunity to prepare bids for such related contracts and subcontracts.
- (e) Any covered employer or ~~Indian~~Anishinaabe or Indigenous certified entity entering into a contract under the ~~Indian~~Anishinaabe or Indigenous preference provisions of this chapter consents to the jurisdiction of the Band's Court of Central Jurisdiction for purposes of resolving any dispute arising under such contract, provided that nothing in this subsection shall waive the sovereign immunity of the Band.

§ 1025. ~~Indian~~Anishinaabe or Indigenous Certified Entities.

The ~~Board~~TERO Director shall establish for approval by the TERO Commission a system for certifying firms as ~~Indian~~Anishinaabe or Indigenous certified entities. This system shall include detailed provisions to ensure that entities that are not truly 51% or more owned by ~~Indians~~Anishinaabe or Indigenous people, or in which daily management and control is not provided by ~~Indians~~Anishinaabe or Indigenous people, are not granted ~~Indian~~Anishinaabe or Indigenous preference certification.

§ 1026. Applicability of ~~Indian~~Anishinaabe or Indigenous Preference in Contracting.

- (a) Except as otherwise provided in this section, the ~~Indian~~Anishinaabe or Indigenous preference in contracting required under § 1024 of this chapter shall apply ~~only~~ to contracts and subcontracts to be performed on or near the Reservation and shall not apply to the delivery of goods from a location outside the Reservation.
- (b) Notwithstanding any other provision in this chapter, the ~~Indian~~Anishinaabe or Indigenous preference in contracting required under § 1024 of this chapter shall not apply to any contracts or subcontracts where the ~~Board~~TERO Commission determines that application of that preference is specifically prohibited by federal law.
- (c) The ~~Indian~~Anishinaabe or Indigenous preference in contracting required under § 1024 of this chapter shall not apply to contracts awarded by the federal or a state government or their agencies or subdivisions. However, the ~~Indian~~Anishinaabe or Indigenous preference in contracting required under § 1024 of this chapter shall apply to all subcontracts awarded by a federal or state contractor or grantee that is a covered entity, whether or not the prime contract was subject to that preference,

except when the Board determines that application of that preference to that entity is specifically prohibited by federal law.

§ 1027. Other Preference and Priorities to be Consistent.

Any provision for ~~Indian~~Anishinaabe or Indigenous preference or priority in employment or contracting contained in any Band policy, including any Corporate Ventures policy ~~of the Corporate Commission~~, must be consistent with the IndianAnishinaabe or Indigenous preference and priority in §§ 1021 and 1024, which provide first priority to Mille Lacs enrolled Band members, second priority to first-generation Band descendants, third priority to members of another federally recognized IndianNative American tribe, and ~~third~~ fourth priority to all others.

Section 4. Amending Title 15, chapter 4, subchapter 4.

§ 1031. Fees.

Except as otherwise provided in § 1032 of this chapter, and ~~except as~~ unless specifically prohibited by federal law, the following fees are assessed on covered employers, other than the Band and Mille Lacs Corporate Ventures, for the privilege of doing business with the Band or Corporate Ventures ~~within on or near the R~~ eservation and to raise revenue for the operation of the TERO office and the enforcement of this chapter.

- (a) Every covered employer, other than the Band and Corporate Ventures, that enters into a contract with the Band or Corporate Ventures totaling \$25,000.00 or more shall pay a one-time project fee of 01.5% of the total amount of the contract. The covered employer shall pay the full amount of the fee before commencing work on the Reservation under the contract, provided that the TERO Director may, for good cause shown by the covered employer, authorize the fee to be paid in installments over the life of the contract, and provided further that if the total amount of the contract is subsequently increased, the covered employer shall pay the additional amount due ~~(0.5% of the increased amount of the contract)~~ at the time of the increase. In all cases, the full amount shall be paid by the contractor upon the last pay application. A covered employer other than the Band and Corporate Ventures that enters into a contract with the Band or Corporate Ventures for less than \$25,000.00 shall pay the 01.5% fee on the total amount of the contract if the contract is amended or enlarged to \$25,000.00 or more within one (1) year after it was entered into. The fee imposed by this paragraph does not apply to a covered employer that enters into a subcontract made under a contract with the Band or Corporate Ventures where the fee has been paid on the total amount of such contract.
- (b) All covered employers ~~other than the Band~~ shall, as a condition of doing business on or near the Reservation under a contract with the Band, consent to the Band entity awarding the contract paying the fee imposed under subsection (a) of this section

734 directly to the TERO prior to the commencement of work under the contract and
735 subtracting the amount of the fee from the payments due to the covered employer
736 under the contract. Prior to making the payment, the Band entity awarding the
737 contract shall provide the contractor with a form prepared by the TERO, in which the
738 contractor grants its consent to the payment of the TERO fee based on the amount it
739 is entitled to receive from the Band entity. A contractor shall not be permitted to
740 commence work on or near the Reservation until it has executed this form, provided
741 that this provision shall not apply if the imposition of the fee with respect to the
742 contractor is prohibited by federal law.

743
744
745 **§ 1033. Fee Collection and Expenditure.**

- 746
747 (a) ~~The TERO fees shall be collected by the director pursuant to TERO regulations.~~ The
748 TERO fees shall be paid over to automatically withheld by the Band's Office of
749 Management and Budget (OMB) and shall be credited to the TERO account. These
750 funds shall be expended solely by the TERO, pursuant to a duly approved budget in
751 order to carry out the purposes of this chapter.
752
753 (b) ~~The TERO Director Office, in conjunction with the Band's Department of~~
754 ~~Labor,~~ shall prepare a quarterly report as to all employment and training
755 expenditures. The report shall be made available to the legislative branch and
756 executive branch Band Assembly, Chief Executive, and TERO Commission each
757 calendar quarter.
758
759

760 **Section 5. Amending Title 15, chapter 4, subchapter 5.**

761
762 **§ 1041. Compliance Plan.**

- 763
764 (a) All covered employers, other than the Band, shall, no less than ten (10) business days
765 prior to commencing business on or near the Reservation, prepare and submit to the
766 TERO Director for her or his approval a plan setting out how the employer will
767 comply with the requirements of this chapter and its implementing regulations
768 regarding Indian Anishinaabe or Indigenous employment and Indian Anishinaabe or
769 Indigenous contracting preference and priority. A Band-owned entity shall, no less
770 than ten (10) business days prior to entering into a contract with a non-Band
771 contractor to be performed on or near the Reservation, prepare and submit to the
772 TERO Director for her or his approval a plan setting out how the Band-owned
773 entity will comply with the requirements of this chapter and its implementing
774 regulations regarding Indian Anishinaabe or Indigenous employment and
775 Indian Anishinaabe or Indigenous contracting preference and priority in connection
776 with such contract. A covered employer already doing business on or near the
777 Reservation on the effective date of this chapter that has not prepared a compliance
778 plan that has been approved by the TERO Director under this section shall come

779 into compliance with the requirements of this section within thirty (30) business days
780 of the effective date of this chapter.

781
782 (b) The payroll records of all covered employers other than the Band shall be submitted
783 to the TERO Director within thirty (30) days of his or her request. Any covered
784 employer required to submit a certified payroll pursuant to federal law under the
785 Davis-Bacon Act shall submit a copy of this certified payroll record to the TERO
786 Director.

787
788 (c) All covered employers, other than the Band and Corporate Ventures, are required to
789 report relevant changes regarding their employees and employment positions to the
790 TERO Director when they submit the payroll records to the Director under
791 subsection (b) of this section, including but not limited to new positions,
792 terminations, layoffs, promotions, and retirements.

793
794 (d) Corporate Ventures shall only be required to submit a compliance plan under this
795 section for contracts subject to the fee established by § 1031 of this chapter.
796

797
798 **§ 1044. Model Language.**

799
800 In order to implement the requirements of §§ 1042 and 1043 of this chapter, the TERO
801 Director shall provide to the covered employer:

- 802
803 (a) model language that shall be included in the notice to prospective contractors and
804 subcontractors, informing them of the requirements established by this chapter; and
805
806 (b) model language to be included in each contract and subcontract, imposing the
807 requirements set out in this chapter as terms of the contract.
808
809

810 **§ 1045. TERO Approval of Notices of Contracts and Contracts Awarded by Covered**
811 **Employers.**

812
813 Each covered employer, prior to issuing notice of a contract to prospective contractors or
814 subcontractors and prior to awarding a contract or subcontract, shall submit the proposed notice
815 and, contract or subcontract to the TERO Director for approval.
816
817

818 **Section 6. Amending Title 15, chapter 4, subchapter 6.**

819
820 **§ 1051. Prohibited Discrimination.**

821
822 Except as necessary to comply with the Indian Anishinaabe or Indigenous employment
823 preference priorities in subchapter 3 of this chapter, it shall be unlawful for a covered employer
824 to do any of the following acts wholly or partially based on the actual or perceived race, color,

religion, national origin, sex, age, sexual orientation, or political affiliation of any individual, unless such characteristic is a bona fide occupational qualification:

- (a) fail or refuse to hire, or discharge, any individual, or otherwise discriminate against any individual, with respect to ~~his or her~~ her or his compensation, terms and conditions, or privileges of employment, including promotion;
- (b) discriminate in recruiting individuals for employment; or
- (c) limit, segregate, or classify employees in any way that would tend to deprive them of employment opportunities.

§ 1052. Religious Accommodation.

It shall be an unlawful discriminatory practice for a covered employer to refuse to make a reasonable accommodation for an employee's religious or spiritual observance, unless doing so would cause undue hardship to the employer as determined by the TERO Director. A reasonable religious accommodation is any adjustment to the work environment that will allow the employee to practice ~~his or her~~ her or his religion, such as flexible scheduling, voluntary substitutions or swaps, job reassignments, and lateral transfers, if approved by the authorized supervisor in accordance with the Band's Personnel Policy Manual. An accommodation would cause an employer undue hardship when ~~it~~ the accommodation would require more than ordinary administrative costs, diminish efficiency in other jobs, infringe on other employees' job rights or benefits, impair workplace safety, cause co-workers to carry the accommodated employee's share of potentially hazardous or burdensome work, or conflict with another applicable law or regulation.

§ 1053. Discrimination Based on Disability.

- (a) It shall be unlawful for a covered employer to discriminate in any aspect of employment against a qualified individual with a disability because of that disability. However, it is not unlawful for a covered employer to use employment qualification standards, tests, or selection criteria that are job-related and consistent with business necessity that make an individual with a disability ineligible for an employment position where the individual could not perform the job even with reasonable accommodation. Nothing in this section shall prohibit a covered employer from refusing to hire an individual with a disability for or from discharging such an individual from an employment position if the individual, because of the disability, is unable to perform the duties of the position, would perform the duties in a manner that would endanger the health and safety of the individual or others, or is unable to be at or go to or from the place at which the position is located.
- (b) Subject to the provisions of subsection (c) of this section, a reasonable accommodation for an individual's disability may include but is not limited to

making facilities readily accessible to and usable by disabled persons, job restructuring, modifying work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

(c) An accommodation is not required if it would impose an undue hardship on the employer's operation. In determining whether an undue hardship exists, employers TERO may consider:

- (1) the overall size of the business or organization with respect to the number of employees and the number and type of facilities;
- (2) the type of the operation, including the composition and structure of the work force, and the number of employees at the location where the employment would occur;
- (3) the nature and cost of the accommodation;
- (4) the reasonable ability to finance the accommodation at each site of business; and
- (5) documented good-faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

Section 7. Amending Title 15, chapter 4, subchapter 7.

§ 1061. Minimum Wage.

~~Any employee who is employed by a covered employer shall be paid an hourly wage of not less than \$7.50 per hour or the current United States Federal Government's minimum wage requirement, whichever is higher.~~ Covered employers shall pay each employee wages at a rate that are at least equal to the Minnesota minimum wage rate established pursuant to Minn. State. § 177.24, plus an additional ten (10) percent.

§ 1062. Prevailing Wage.

All covered employers are required to compensate construction ~~laborers~~ workers according to the prevailing wage set by the U.S. Department of Labor according to the Davis-Bacon Act for the county in which the work shall commence, unless the ~~Board~~ Commission implements Band prevailing wage rates by rule, regulation, or guideline, in which case the Band prevailing wage determination shall apply.

917 **§ 1063. Maximum Hours.**

918
919 No covered employer shall employ any of its employees for a work week longer than forty (40)
920 hours unless such employee receives compensation for the additional hours at a rate not less
921 than one and one-half times the regular rate at which the employee is normally compensated.

922
923
924 **§ 1064. Holiday Pay.**

925
926 No covered employer shall require employees to work on a paid holiday unless such employee
927 receives compensation for the holiday work at a rate of not less than double the regular rate at
928 which the employee is normally compensated. Covered employers shall set their own holiday
929 schedule for purposes of this section.

930
931
932 **§ 10687. Guidance.**

933
934 For the purposes of interpreting this subchapter only, the ~~Board~~TERO Commission and the
935 Band's Court of Central Jurisdiction may look to the Federal Fair Labor Standards Act (~~FLSA~~)
936 of 1938, 29 U.S.C., §§ 201-219, its implementing regulations, and related case law for
937 persuasive guidance, provided that nothing in this section shall be construed as an adoption by
938 the Band of that Act or its implementing regulations.

939
940
941 **§ 10698. Fringe Benefits.**

942
943 A covered employee must give an employee engaged in construction the option of electing to
944 receive any amount to which he or she is entitled as prevailing wage fringe benefits as a part of
945 her or his hourly pay unless it is determined that the application of this provision is specifically
946 prohibited by ~~f~~Federal law. The prevailing wage fringe benefits to which the employee is
947 entitled shall include, but not be limited to, the fringe benefit determination made by the U.S.
948 Secretary of Labor pursuant to the ~~Federal~~-Davis-Bacon Act or by the ~~Board~~TERO
949 Commission pursuant to this chapter. Every covered employer engaged in projects subject to the
950 ~~Federal~~-Davis-Bacon Act shall offer this option to each employee at the time he or she is first
951 employed.

952
953
954 **Section 8. Amending Title 15, chapter 4, subchapter 8.**

955
956 **§ 1073. Enforcement.**

- 957
958 (a) The ~~TERO D~~irector is authorized to enforce the rules and regulations adopted in §
959 1072 of this chapter pursuant to the enforcement provisions set out in subchapter 9 of
960 this chapter, to the extent her or his authority has not been preempted by ~~f~~Federal
961 law.

- (b) For any employer over whom the TERO Director's authority to enforce the requirements of this subchapter has been preempted by ~~f~~ederal law and for employers within the Reservation who are not subject to the jurisdiction of the Band, the Director shall work cooperatively with federal and state officials responsible for enforcing occupational safety and health requirements applicable to such employers to ensure maximum enforcement.

Section 9. Amending Title 15, chapter 4, subchapter 9.

§ 1082. Investigations.

- (a) On her or his own initiative or on the basis of a complaint filed pursuant to § 1083 or any other provision of this chapter, the TERO Director, or any field compliance officer designated by the TERO Director, shall ~~may~~ make such public or private investigations within ~~the reservation~~ her or his jurisdiction as the director deems necessary:
- (1) to ensure compliance with a provision in this chapter;
 - (2) to determine whether any covered employer has violated any provision of this chapter or its implementing regulations; or
 - (3) to aid in prescribing rules or, regulations, ~~or policies~~ hereunder.
- (b) Separate from acting on any complaint filed, the TERO Director shall conduct regular compliance reviews to ensure that all covered employers are complying with the requirements of this chapter.
- (c) The TERO Director or any field compliance officer designated by the TERO Director may, provided they are clearly identified as TERO staff, enter the place of business or employment of any covered employer for the purpose of an investigation or compliance review, at said place of business or employment, in a manner consistent with good safety practices and with the orderly operation of the business activity. The TERO Director or officer may:
- (1) interview any employee or agent of the covered employer;
 - (2) review and copy any documents; and
 - (3) carry out any other activity the TERO Director or officer deems necessary to accomplish the investigation or compliance review, provided that, the TERO Director or officer shall comply with the requirements of subsection (e) of this section when reviewing or copying any confidential documents.

- (d) For the purpose of investigations, compliance reviews, or hearings, which, in the opinion of the TERO Director or the TERO Commission, are necessary and proper for the enforcement of this chapter, the TERO Director or the Chairperson of the TERO Commission may administer oaths or affirmations, subpoena witnesses, take evidence, and require the production of books, papers, contracts, agreements, or other documents, records, or information that the TERO Director or the TERO Commission deems relevant to the inquiry.
- (e) Any state or federal tax records, trade secrets, or privileged or confidential commercial, financial, or employment information subpoenaed or otherwise obtained pursuant to the provisions of this chapter or used at a compliance hearing or subsequent appeal to the Band's Court of Central Jurisdiction:
- (1) shall be regarded as confidential records of the TERO Commission or the Court;
 - (2) shall not be opened to public inspection;
 - (3) shall be used only by the TERO Director, the TERO Commission, or parties to a compliance hearing or subsequent appeal to the Court; and
 - (4) shall be used in a manner that, to the maximum extent possible consistent with the requirement of fairness to the parties, protects the confidentiality of the documents.
- (f) Any person, including but not limited to any employee or official of the Band, who willfully discloses such confidential records, except as expressly authorized by this chapter or Court order, may be subject to a civil fine not to exceed \$500.00.
- (g) Documents obtained from a covered employer under this section shall be returned to the employer at the conclusion of any investigation, compliance review, or hearing, including the end of any available appeal period.

§ 1083. Complaints Against the Parties Other Than the Band or the TERO Director.

Any individual, group of individuals, business, or organization that believes any covered employer, ~~other than the Band, or the director or other TERO staff,~~ has violated any requirement imposed by this chapter or any regulation issued pursuant to it, may file a complaint with the TERO Director, ~~or, if the complaint is against the director or other TERO staff, with the chairperson of the TERO Commission.~~ The complaint shall be in writing and shall provide such information as is necessary to enable the Director ~~or an independent party appointed by the TERO Commission~~ to carry out an investigation. Within ~~fifteen (15) calendar days~~ after receipt of the complaint, and on a regular basis thereafter, the Director ~~or the independent party appointed by the TERO Commission~~ shall provide the complaining party with a written report on the status of the complaint. The Director ~~or the independent party appointed by the TERO~~

Commission shall, within ~~thirty~~ (30) calendar days of the date on which a complaint is filed, complete an investigation of the complaint. Upon request, the TERO Commission may grant the Director or the independent party appointed by the TERO Commission an extension of no more than ~~thirty~~ (30) calendar days to complete the investigation. If, upon investigation, the ~~D~~irector or the independent party appointed by the TERO Commission has reason to believe a violation has occurred, he or she the Director shall proceed pursuant to the provisions of this chapter.

§ 1084. Complaints Against the TERO Director.

Any individual, group of individuals, business, or organization that believes the TERO Director has violated any requirement imposed by this chapter or any regulation issued pursuant to it may file a complaint with the Chairperson of the TERO Commission. The complaint shall be in writing and shall provide such information as is necessary to enable the TERO Commission or an independent party appointed by the TERO Commission to carry out an investigation. Within 15 calendar days after receipt of the complaint, and on a regular basis thereafter, the TERO Commission or the independent party appointed by the TERO Commission shall provide the complaining party with a written report on the status of the complaint. The TERO Commission or the independent party appointed by the TERO Commission shall, within 30 calendar days of the date on which a complaint is filed, complete an investigation of the complaint. The TERO Commission may grant itself or the independent party appointed by the TERO Commission an extension of no more than 30 calendar days to complete the investigation. If, upon investigation, the TERO Commission or the independent party appointed by the TERO Commission has reason to believe a violation has occurred, TERO Commission or independent party shall proceed pursuant to the provisions of this chapter.

§ 10854. Complaints Against the Band.

Any individual who believes the Band, including any office, division, branch, ~~subsidiary entity, or commercial enterprise of the Band~~ or agency, other than the TERO ~~D~~irector or other TERO staff, has violated any requirement imposed by this chapter or any regulation issued pursuant to it may file a complaint with the TERO ~~D~~irector, but only after the individual has either:

- (a) filed a complaint with and exhausted the administrative remedies provided by the involved office, division, branch, ~~subsidiary entity, or commercial enterprise of the Band~~ or agency; or
- (b) filed a complaint with the involved office, division, branch, ~~subsidiary entity, or commercial enterprise or agency~~ of the Band and ~~30 calendar~~ sixty (60) days have passed since filing and no meaningful action has been taken on the complaint by that office, division, ~~subsidiary entity, or commercial enterprise or agency.~~

Upon receiving a complaint that meets the requirements of this section, the ~~D~~irector shall proceed in the same manner as he or she would on a complaint filed pursuant to § 1083 of this chapter, except that the ~~D~~irector and the TERO Commission shall take into consideration any

written decision concerning the complaint issued by the office, division, branch, ~~subsidiary, entity, or commercial enterprise~~ or agency of the Band that is the subject of the complaint.

§ 10865. Resolution of Violations.

- (a) If, after conducting an investigation or compliance review, the ~~TERO D~~irector has reasonable cause to believe a violation of this chapter or any regulation issued ~~hereunder pursuant to it~~ has occurred, including a failure by a party to comply with a subpoena or other request during an investigation, the ~~D~~irector shall notify the covered employer ~~or covered entity~~ in writing, delivered by registered mail and the email address of the covered employer on file with the TERO Commission, specifying the alleged violations. If the alleged violation arose as a complaint filed pursuant to §§ 1083-84 of this Title, the TERO Director shall deliver by registered mail and email on file with the TERO Commission a copy of the notice of violation to the complaining party.
- (b) If, after conducting an investigation or compliance review resulting from a complaint filed pursuant to § 1083, the TERO Director determines that a violation of this chapter or any regulation issued hereunder has not occurred, the Director shall notify the complaining party in writing of the decision. The notice shall contain findings of fact sufficient to support the Director's decision, citations to all statutes or regulations the Director relied on in reaching her or his decision, and an analysis showing why reasonable cause does not support a belief that a violation of this chapter or any regulation issued pursuant to it has occurred. The notice shall also advise the complaining party of their right to request a hearing to appeal the determination to the TERO Commission.
- ~~(b)(c)~~ When the Director believes a violation has occurred, ~~T~~he ~~D~~irector shall make a good-faith effort to achieve an informal settlement of the alleged violation by meeting with the covered employer, and, if the alleged violation arose as a complaint filed pursuant to § 1083 of this Title, with the complaining party, and taking other appropriate action. When a complaint is filed pursuant to § 1083, the Director may accept a settlement agreement only after obtaining the signed written consent of the covered employer and the complaining party.
- ~~(e)(d)~~ If the ~~D~~irector is unable to achieve an informal settlement, he ~~or she~~ shall issue a formal notice of non-compliance, which shall advise the covered employer of its right to request a hearing. If the alleged violation arose as a complaint filed pursuant to § 1083 of this Title, the Director shall deliver a copy of the notice of non-compliance to the complaining party. The formal notice shall set out the nature of the alleged violation and the steps that must be taken to come into compliance. ~~H~~The notice shall provide the covered employer with a reasonable time, which shall not be less than ten (10) business days from the date of service of such notice, to comply. If the ~~D~~irector has reason to believe that irreparable harm will occur during that

period, the Director may require that compliance occur in less than ten (10) business days.

~~(d)~~(e) If the covered employer or complaining party disputes the violation, as provided for in the formal notice, the covered employer or complaining party may request a hearing before the TERO Commission, which shall be held no sooner than five (5) business days and no later than ~~thirty (30)~~ calendar days after the date for compliance set forth in the formal notice. The ~~Director, or the~~ covered employer, or complaining party may ask the TERO Commission to hold the hearing sooner. The TERO Commission shall grant such a request only upon a showing that an expedited hearing is necessary to avoid irreparable harm.

~~(e)~~(f) If a covered employer fails or refuses to comply and does not request a hearing, the ~~Director~~ shall request the Chairperson of the TERO Commission to convene a session of the TERO Commission for the purpose of imposing sanctions on the covered employer. This session shall take place as soon as necessary to avoid irreparable harm.

~~(f)~~(g) If an independent investigator determines the TERO Director or TERO staff may have violated this chapter, the Chairperson shall convene a meeting of the TERO Commission to determine the resolving action to be taken by the Director and TERO staff, and the results thereof shall be reported to the Band Assembly and the Chief Executive.

§ 10876. Hearing Procedures.

(a) Any hearing held pursuant to this chapter shall be conducted by the TERO Commission. The hearing shall be governed by Robert's Rules of Order, or any other rules of practice and procedure that are hereafter adopted by the TERO Commission. The ~~TERO Director, and the covered employer, and, if applicable, the complaining party,~~ shall have the right to call and cross examine witnesses, as well as present physical evidence. The TERO Commission may consider any evidence that it deems relevant to the hearing. The TERO Commission shall not be bound by technical rules of evidence in the conduct of hearings under this chapter, and the presence of informality in any proceeding, as in the manner of taking testimony, shall not invalidate any order, decision, rule, or regulation made, approved, or confirmed by the TERO Commission. The ~~Director~~ shall have the burden of proving that the covered employer violated this chapter by a preponderance of the evidence. If the hearing is the result of an appeal by a complaining party pursuant to § 1086(b) of this subsection, the complaining party shall have the burden of proving, by a preponderance of the evidence, that reasonable cause exists to believe a violation of this chapter or any regulation issued hereunder occurred. An audio recording shall be made of each hearing. No stenographic record of the proceedings and testimony shall be required except upon arrangement by, and at the cost of, the covered employer.

(b) The ~~D~~irector shall prosecute the alleged violation on behalf of the TERO, including those resulting from a successful appeal by a complaining party pursuant to § 1086(b) of this subsection. During the hearing and at all stages of the enforcement process provided for in this chapter, the ~~D~~irector may be represented by the Band's Office of the Solicitor General's Office. If the covered employer is an office or subsidiary of the Band ~~g~~overnment and the ~~Band~~ Office of the Solicitor General's Office or the TERO Commission determines ~~it~~that representation would create a conflict ~~to represent the director of interest,~~ the Solicitor General ~~may~~shall obtain outside legal counsel for the TERO Director.

(c) The TERO Commission shall sit as an impartial judicial body. The TERO Commission shall establish procedures and safeguards to ensure that the rights of all parties are protected and that there is no improper contact or communication between the TERO Commission and the ~~D~~irector during the hearing phase of the enforcement process.

(d) If the TERO Commission requires legal assistance during the hearing process, or at any other phase of the enforcement process, and ~~it~~representation by the Office of the Solicitor General would ~~be~~create a conflict of interest for the Band Solicitor General's Office to provide such representation, the Solicitor General shall ~~attempt~~ attempt to retain outside legal counsel.

(e) The TERO Commission shall have the right to obtain outside legal counsel as it deems appropriate.

§ 10887. Sanctions.

(a) If, after a hearing, the TERO Commission determines that the alleged violation of this chapter or a regulation issued pursuant to it has occurred, and that the party charged has no adequate defense in law or fact, or if a party was issued a formal notice of non-compliance and failed to request a hearing, the TERO Commission may:

(1) deny such party the ability to commence business on lands owned by or for the benefit of the Band or its members on the Reservation, provided that the party is not an office, division, branch, ~~subsidiary, entity, or commercial enterprise~~or agency of the Band;

(2) suspend such party's business activity on lands owned by or for the benefit of the Band or its members on the Reservation, provided that the party is not an office, division, branch, ~~subsidiary, entity, or commercial enterprise~~or agency of the Band;

(3) terminate such party's business activity on lands owned by or for the benefit of the Band or its members on the Reservation, provided that the party is not

an office, division, branch, ~~subsidiary, entity, or commercial enterprise or~~
agency of the Band;

- (4) deny the ability of such party to conduct any further business with the Band or on lands owned by or on behalf of the Band or its members on the ~~R~~reservation, provided that the party is not an office, division, branch, ~~subsidiary, entity or commercial enterprise or~~ agency of the Band;
- (5) impose a civil fine of up to \$500.00 per violation per day following the date for compliance;
- (6) order such party to make payment of back pay or other damages to any aggrieved party;
- (7) order such party to dismiss any employees hired in violation of the Band's employment rights requirements;
- (8) reimburse any party who improperly paid a TERO fee or overpaid said fee, but no interest shall be paid in such cases; or
- (9) order the party to take such other action as is necessary to ensure compliance with this chapter or to remedy any harm caused by a violation of this chapter, consistent with the requirements of the laws of the Band and the Indian Civil Rights Act, 25 U.S.C., § 1301, et seq.

- (b) The TERO Commission's decision shall be in writing and shall be served on the charged party and, if applicable, the complaining party, by registered mail or in person by an employee of the TERO no later than ~~thirty (30)~~ calendar days after the close of the hearing. The decision shall contain findings of fact sufficient to support the TERO Commission's ordered relief, or lack thereof, citation to all statutes and regulations the Commission relied on in reaching its decision, and an analysis showing why the decision is reasonable and supported by facts, laws, and regulations. Upon a showing by the TERO Director, complaining party, or the charged party that further delay will cause irreparable harm, the TERO Commission shall issue its decision within ten (10) business days after the close of the hearing. If the party fails to comply with the TERO Commission's decision within ten (10) business days, the Director may file for ~~an injunction~~ equitable relief in the Band's ~~District Court of Central Jurisdiction~~. The District Court shall grant such ~~injunctive~~ equitable relief as is necessary to prevent irreparable harm pending an appeal or expiration of the time for the party to file an appeal.

§ 10898. Appeals.

- (a) An appeal to the Band's ~~District Court of Central Jurisdiction~~ may be taken from any formal order of the TERO Commission by any party adversely affected thereby,

including a complainant. To take such an appeal, a party must file a notice of appeal in the Band's ~~District Court of Central Jurisdiction~~ and serve a copy of the notice of appeal on the ~~TERO Director~~ and any other party to the proceeding no later than ~~twenty (20)~~ calendar days after the party receives a copy of the TERO Commission's decision.

(b) The notice of appeal shall:

- (1) set forth the order from which the appeal is taken;
- (2) specify the grounds upon which reversal or modification of the order is sought;
- (3) be signed by the appellant or her or his legal representative; and
- (4) comply with any other requirements for actions filed in the ~~Band's District Court of Central Jurisdiction~~, as established by ~~that the~~ Ceourt.

(c) Except as provided elsewhere in this chapter, the order of the TERO Commission shall ~~be stayed~~ remain in full force and effect pending the determination of the Court in the absence of an injunction staying the TERO Commissioner's order. The ~~TERO Director~~ may petition and, for good cause shown, the Court may order the party filing the appeal to post a bond sufficient to cover the monetary damages that the TERO Commission assessed against the party or to assure the party's compliance with other sanctions or remedial actions imposed by the TERO Commission's order in the event that order is upheld by the Court.

(d) The Court shall sit without a jury, confine its review to the Commission record, and apply an abuse of discretion standard. The filing of briefs and oral argument must be made in accordance with the Band rules governing civil cases ~~review the decision of the TERO Commission de novo.~~

(e) The Court may affirm a formal order of the Commission, remand the case for further proceedings, or reverse the formal order if the substantial rights of the appealing party have been prejudiced because the formal order is:

- (1) in excess of the statutory authority or jurisdiction of the Commission;
- (2) made upon unlawful procedure; or
- (3) unsupported by evidence.

~~(e)~~(f) If a party has failed to come into compliance with a decision of the TERO Commission from which no appeal has been taken, or a decision of the Court, within 20 calendar days after receipt of notice of such decision, the TERO Director shall

petition the Court and the Court shall grant such orders as are necessary and appropriate to enforce the orders of the TERO Commission or Court.

(f)(g) If the order of the TERO Commission is reversed or modified, the Court shall specifically direct the TERO Commission as to further action the TERO Commission shall take in the matter, including making and entering any order or orders in connection therewith, and the limitations, or conditions to be contained therein.

§ 109089. Monitoring.

If, when carrying out inspections at work sites or otherwise carrying out their responsibilities under this chapter, the TERO Director or TERO compliance officers have reason to believe that a requirement of a ~~t~~ribal, ~~f~~ederal, state, or local law, act, or regulation, other than the ones included in this chapter, may have been violated by a party, the Director and TERO compliance officers are authorized to document such possible violations, to report said violations to the appropriate enforcement agency, and, to the extent that resources permit and the Director determines it to be appropriate, assist that agency in its attempt to investigate and cure the possible violation.

EFFECTIVE DATE. This bill shall take effect immediately upon signature by the Chief Executive, or lack of a veto, as provided in 3 MLBS § 17.

Act 40-25
(Band Assembly Bill 21-04-40-25)

Introduced to the Band Assembly on this
Twenty-seventh day of August in the year
Two thousand twenty-five.

Passed by the Band Assembly on this
____ day of ____ in the year
Two thousand twenty-five.

Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: _____

Virgil Wind, Chief Executive

OFFICIAL SEAL OF THE BAND