

Act 14-23

An Act amending Section 16 and 18 of Title 4 of the Mille Lacs Band Statutes (“MLBS”) to clean up language and to allow independent agencies to hire their own independent attorneys.

By amending Title 4, “[t]he Band Assembly shall conduct formal public hearings on any bill which alters, amends or repeals Titles 1, 3, 4 and 5, Chapter 1 of Title 2 and Subchapters 1 to 3 of Chapter 3 of Title 24 of the Mille Lacs Band Statutes.” After a formal public hearing has been conducted, the proposed bill shall be posted in a conspicuous location for ten calendar days.

The Band Assembly conducted a formal public hearing on March 1, 2023, during a live-streamed Band Assembly meeting. From March 2, 2023, to March 11, 2023, the Band Assembly posted the proposed bill in a conspicuous place by emailing the bill to all Band employees and posting the bill on the Tribal Register.

The District I Representative introduced this bill on the 15th day of March, 2023.

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

Section 1. Amending 4 MLBS § 16.

§ 16. Legal Counsel.

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

- (a) **Interior.** ~~The Interior-Interior Legal-legal Counsel-counsel~~ of the Band shall be known as the Solicitor General. The duly-appointed and confirmed Solicitor General, as well as any other interior legal counsel, shall be a member of the bar association of the ~~Non-Removable Mille Laes Band of Chippewa Indians and~~ The Solicitor General shall represent the interest of the Executive Branch and the Band Assembly in all matters before the Court of Central Jurisdiction. Any independent agency of the Band may hire legal counsel, which shall be independent from the Solicitor General.
- (b) **Exterior.** ~~The eExterior lLegal cCounsel in-and for the Non-Removable Mille Laes 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 ~~eExterior lLegal cCounsel 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 ~~eExterior lLegal cCounsel~~ may represent the

interests of the ~~Non-Removable Mille Laes b~~Bands of Chippewa Indians in any matter before any court including the Court of Central Jurisdiction.

Section 2. Amending 4 MLBS § 18.

§ 18. Duties of Solicitor General.

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

- (a) To represent the interests of the ~~Non-Removable Mille Laes Bands of Chippewa Indians~~Band 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 Laes Bands of Chippewa Indians~~Band.
- (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 Laes Bands of Chippewa Indians~~Band, 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 Laes Bands of Chippewa Indians~~Band.
 - (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, the Speaker of the Assembly, or the Chief Justice.
- (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 Laes Bands of Chippewa Indians~~Band as prescribed by the standards of the office of Solicitor General in 4 MLBS § 19.

**Act 14-23
(Band Assembly Bill 20-03-14-23)**

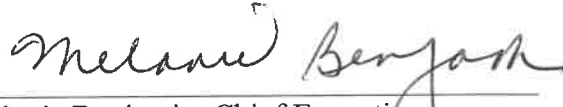
Introduced to the Band Assembly on this
Fifteenth day of March in the year
Two thousand twenty-three.

Passed by the Band Assembly on this
Fifteenth day of March in the year
Two thousand twenty-three.


Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: ^{MB} March 27 2023
March 27 2023


Melanie Benjamin, Chief Executive

Veto

OFFICIAL SEAL OF THE BAND



MILLE LACS BAND OF OJIBWE

Executive Branch of Tribal Government

March 22, 2023

VIA DELIVERY AND EMAIL

Band Assembly
Non-Removable Mille Lacs Band of Ojibwe
43408 Oodena Drive
Onamia, Minnesota 56359

Re: Veto of Bill 20-03-14-23 (Act 14-23)

Dear Honorable Members of the Band Assembly:

Pursuant to the powers vested in me by the Mille Lacs Band Statutes, I veto Bill 20-03-14-23 (Act 14-23) because the proposed substantive amendments are overly broad and risk creating unnecessary confusion.

First, my understanding of this legislation's central purpose is to permit the Gaming Regulatory Authority to hire legal counsel, but the Band Assembly intends to avoid legislating to address this issue on a case-by-case basis. I agree with the Band Assembly's intention, but the proposed language creates more questions than it resolves.

What is the scope of authority that legal counsel would possess by representing an independent agency? The Solicitor General represents the Band's legal interests in litigation before any court, but any legal counsel of an independent agency could reasonably interpret the proposed language as not prohibiting representing the independent agency in litigation before any court.

Does the Band Assembly also intend for the Tribal Employment Rights Office and the Department of Athletic Regulation to hire independent legal counsel?

One idea to improve upon the proposed language is to include language clarifying that all conduct of litigation in which the Band is a party is vested in the Solicitor General. An alternative idea is to simply amend Title 15, Chapter 1, Subchapter 4 to permit the Gaming Regulatory Authority to hire legal counsel and clearly define the legal counsel's scope of authority.

I look forward to discussing this bill in the compromise hearing.

Sincerely,

Melanie Benjamin
Chief Executive

cc: Darcie Big Bear, Parliamentarian
Enc: Bill 20-03-14-23 (Act 14-23)

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