

Ordinance 39-98

An ordinance establishing travel regulations for officials of the Mille Lacs Band of Ojibwe and repealing Title 6 of the Mille Lacs Band Statutes Annotated.

The District III Representative introduced the following bill on the 26 day of June 1998.

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of establishing a body of law governing travel for officials of the Mille Lacs Band of Ojibwe. The Band Assembly determines that it is in the Band's best interest to provide a uniform set of protections and safeguards for Band assets by enacting effective and efficient travel policies. This Act repeals and replaces Title 6 of the Mille Lacs Band Statutes Annotated in its entirety.

Title 6

Section 1. Purpose

This Act is intended to establish a body of law governing travel for Elected Officials and Appointed Officials of the Mille Lacs Band of Ojibwe. The purpose of this Act is to provide a uniform set of regulations governing travel that will allow officials of the Band to represent the interests of the Band to the best of their abilities and to manage resources of the Band effectively and responsibly.

Section 2. Repeal.

Title 6 of the Mille Lacs Band Statutes Annotated is hereby repealed and replaced in its entirety to the extent that it is inconsistent with this Act.

Section 3. Definitions

- (a) Actual Expenses. Out of pocket expenses paid by a traveler when travelling on official Band business that may be reimbursed to the traveler.
- (b) Appointed Officials. For purposes of this Act appointed officials of the Mille Lacs Band shall include but not be limited to, the Commissioner of Administration, the Assistant Commissioner of Administration, the Commissioner of Education, the Commissioner of Finance, the Commissioner of Health and Human Services, the Commissioner of Community Development, the Commissioner of Natural Resources, the Solicitor General, the Justices and Judges of the Court of Central Jurisdiction or any other person designated as a Senior Executive Staff employee.
- (c) Elected Officials. For purposes of this Act elected officials shall be the Chief Executive, the Secretary/Treasurer of the Band Assembly, and the District Representatives of the Band Assembly.

- (d) Joint Resolution. A resolution adopted by the Band Assembly that requires the concurrence of the Chief Executive to have the effect of law and which shall remain in effect until altered by the enactment of law or joint resolution.
- (e) Misconduct. Shall include but not be limited to unlawful behavior or other intentional and wrongful behavior other than negligence or carelessness.
- (f) Necessary Expense. An expense that is helpful and appropriate in assisting a traveler in the performance of their duty. An expense does not have to be essential to be considered necessary.
- (g) Per Diem. A payment made to a traveler for daily subsistence incurred for travel instead of payment made for the actual expense for subsistence while on travel.
- (h) Senior Executive Staff. All individuals employed by the Mille Lacs Band or a political subdivision having the status of Senior Executive Staff, as designated by their personnel file, and who are not otherwise designated as Appointed Officials including but not limited to the Deputy Assistant to the Chief Executive.
- (i) Subsistence. Lodging, meals, and other incidental expenses for the personal sustenance and comfort of the traveler.

Section 4. Interpretation.

The provisions of this Act shall be interpreted and applied liberally to accomplish the purpose of this Act and if a court of competent jurisdiction adjudges any section, provision or portion invalid, the remainder of the Act shall not be affected thereby.

Section 5. Per Diem; Elected Officials Traveling on Official Business

- (a)(1) Under provisions prescribed by this Act, an elected official, when traveling on official Band business shall be entitled to any of the following:
 - (A) Per Diem at a rate not to exceed that established by joint resolution of the Band Assembly including;
 - (i) Lodging for elected officials traveling on behalf of the Band which shall be paid for with a Band credit card not to exceed an amount established by joint resolution of the Band Assembly;
 - (ii) Elected officials shall receive payment for meals and incidentals at a rate pre-determined by joint resolution.
 - (B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established by joint resolution of the Band Assembly; or

(C) Combination of payments described in subparagraphs (A) and (B) of this paragraph.

(2) For travel consuming less than ten hours in a single day, the payment prescribed shall be as set forth pursuant to this Act.

(b)(1) Under the provisions set forth in this Act, an elected official who abandons the travel assignment prior to its completion:

(A) Because of an incapacitating illness or injury is entitled to reimbursement for expenses of transportation to the elected officials designated post of duty, or home, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

(B) Because of a personal or family emergency (such as but not limited to serious illness, injury, or a death, or an emergency situation), the official shall be entitled to incur additional expenses to return to the designated post of duty or home, as the case may be.

(2)(A) Under provisions of this Act, an elected official who, interrupts the travel assignment prior to its completion for a reason specified in subparagraph (A) of paragraph (1) of this subsection, may be allowed (subject to the limitation provided in this section);

(i) To incur transportation expenses to the location where necessary medical services are provided or the emergency situation exists;

(ii) Payments pursuant to subsection (a) of this section until that location is reached; and

(iii) Reimbursement and payments or to incur expenses for the return to such assignment or location.

(B) The amount of additional expenses an elected official may incur, pursuant to subparagraph (2) shall be the elected official's actual cost of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location, less the cost of transportation which the elected official would have incurred had such travel begun and ended at the elected official's designated post of duty, or home, as the case may be. The payments which an elected official may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the elected official's transportation as a consequence of the transportation having begun and ended at a location on the travel assignment rather than at the elected official's designated post of duty, or home, as the case may be.

Section 6. Per Diem; Appointed Officials Traveling on Official Business

(a)(1) Under provisions prescribed in this Act, an appointed official, when traveling on official business from the appointed official's designated post of duty, or away from home, is entitled to any of the following;

(A) Per Diem at a rate not to exceed that established pursuant to section 11 of this Act or as otherwise amended by joint resolution; or

(B) Reimbursement for the actual and necessary expenses of official travel not to exceed an amount established pursuant to this Act or as amended by joint resolution of the Band Assembly; or

(C) Combination of payments described in subparagraphs (A) and (B) of this paragraph.

(D) Lodging for appointed officials traveling on behalf of the Band which shall be paid for with a Band credit card not to exceed an amount established by joint resolution.

(2) For travel consuming less than ten hours in a single day, the payment prescribed shall be as set forth in section 11 of this Act.

(b)(1) Under the provisions set forth in this Act, an appointed official who abandons their travel assignment prior to its completion;

(A) Because of an incapacitating illness or injury which is not due to an appointed officials own misconduct is entitled to reimbursement for expenses of transportation to the appointed official's designated post of duty, or home, as the case may be, and to payments pursuant to subsection (a) of this section until that location is reached; or

(B) Because of a personal or family emergency (such as but not limited to serious illness, injury, or a death or an emergency situation), the official shall be entitled to incur additional expenses to return to the appointed official's designated post of duty or home, as the case may be.

(2)(A) Under provisions prescribed in this Act, an appointed official who, interrupts the travel assignment prior to its completion for a reason specified in this section, may be allowed (subject to the limitation provided in subparagraph (B) of this paragraph)-

(i) To incur transportation expenses to the location where necessary medical services are provided or the emergency situation exists;

(ii) Payments pursuant to subsection (a) of this section until that location is reached; and

(iii) Reimbursement and payments or to incur expenses for the return to such assignment.

(B) The reimbursement which an appointed official may be allowed pursuant to this subparagraph shall be the appointed official's actual costs of transportation to the location where necessary medical services are provided or the emergency exists, and return to assignment from such location. The payments which an appointed official may be allowed pursuant to subparagraph (A) of this paragraph shall be based on the additional time (if any) which was required for the appointed official's transportation as a consequence of the transportation having begun and ended at a location on the travel assignment (rather than at the officials designated post of duty, or home, as the case may be.

Section 7. Mileage and Related Allowances

- (a)(1) Under provisions prescribed by this Act or as amended by joint resolution, an elected or appointed official traveling on official business for the Band is entitled to an established mileage rate instead of the actual expense of transportation, for the use of a privately owned vehicle when that mode of transportation is authorized or approved as more advantageous to the Band.
- (2) Under provisions prescribed by this Act or as amended by joint resolution, an elected or appointed official traveling on official business for the Band is entitled to an established rate per mile, instead of the actual expense of transportation, for the use of a privately owned airplane or motorcycle when that mode of transportation is authorized or approved as more advantageous to the Mille Lacs Band.
- (b) A determination that travel by a privately owned vehicle is more advantageous to the Band is not required under this section when payment on a mileage basis is limited to the actual cost of travel by common carrier including per diem.
- (c) Notwithstanding the provisions of subsections (a) and (b) of this section, in any case in which an elected or appointed official who is engaged on official business for the Band chooses to use a Band owned vehicle in lieu of a privately owned vehicle, payment on a mileage basis is limited to the actual expense of travel when not otherwise paid for by the Band.
- (d) In addition to the rate per mile authorized under subsection (a) of this section, the elected or appointed official may be reimbursed for-
- (1) Parking fees; and
 - (2) Ferry fees; and
 - (3) Bridge, road, and tunnel costs; and
 - (4) Airplane landing and tie-down fees:

Section 8. Advancements and Deductions

- (a) The Office of Management and Budget may advance, through the proper disbursing official, to an elected or appointed official entitled to per diem or mileage allowances under this Act, a sum considered advisable with regard to the character and probable duration of the travel to be performed based upon a pre-trip request form.

Section 9. Allowable Travel Expenses

- (a) Except as otherwise permitted by this Act only actual and necessary travel expenses will be allowed for an elected or appointed official including but not limited to;
- (1) Expenses for business related telephone or fax usage;

- (2) Reasonable, actual costs for use of physical fitness facilities;
 - (3) The actual cost for transportation for governmental purposes when at the destination location such as but not limited to taxi fares, bus fares or car rentals and valet which shall not exceed a rate prescribed by law or as amended by joint resolution of the Band Assembly;
 - (4) The actual cost of cleaning or dry cleaning clothes not to exceed an amount prescribed by Band law or as amended by joint resolution of the Band Assembly;
 - (5) The expense of personal phone calls while on travel in excess of 10 hours not to exceed 15 minutes per day on any individual trip.
 - (6) Other actual and necessary expenses that may arise from time to time.
- (b) An elected or appointed official traveling on official business is expected to exercise reasonable care in incurring expenses. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. Individual officials will be responsible for excess costs and any unnecessary expenses incurred for personal preference or convenience as determined by review of post-trip travel expense statements pursuant to section 12 of this Act.

Section 10. Travel Advances

- (a) Any elected or appointed official of the Mille Lacs Band when requesting a travel advance pursuant to section 8 of this Act must complete a pre-trip travel expense statement which shall include the following information:
- (1) Name and title of the person requesting advance travel payment; and
 - (2) The date the post-trip expense form is submitted to the Office of Management and Budget; and
 - (3) Destination and purpose of the travel along with supporting documentation; and
 - (4) Method of transportation used; and
 - (5) Signature of the traveler; and
 - (6) Appropriate authorizing signature of;
 - (i) The Chief Executive or Commissioner of Administration or other designee for Executive Branch Officials; or
 - (ii) The Secretary/Treasurer or designee for Legislative Branch Officials; or

(iii) The Chief Justice or designee for Judicial Branch Officials;

(6) The estimated travel cost based on the number of quarters of per diem claimed and other estimated travel expenses.

Section 11. Per Diem Rates

(a) The Mille Lacs Band determines that the per diem rate for appointed officials shall be at the same rate that the United States General Service Administration prescribes for federal employees, on a quarter basis, unless otherwise prescribed by joint resolution.

(1) Common carrier transportation shall be utilized for trips with a destination in excess of two hundred miles from the appointed official's post of duty or home, when it is in the best interest of the Band to do so.

(2) Notwithstanding any provisions to the contrary in this Act, a trip of ten hours or less occurring entirely in one calendar day by an appointed official is not eligible for advance payments.

Section 12. Post-Trip.

(a) Any elected or appointed official when receiving Band funds for travel shall submit a post-trip travel expense statement which shall include the following information:

(1) The name and title of the person travelling; and

(2) The date the post-trip expense form is submitted to the Office of Management and Budget; and

(3) The destination and purpose of the travel; and

(4) The method of transportation used; and

(5) The signature of the traveler; and

(6) The appropriate authorizing signature of;

(i) The Chief Executive or the Commissioner of Administration or designee for Executive Branch Officials;

(ii) The Secretary/Treasurer or designee for Legislative Branch Officials;

(iii) The Chief Justice or designee for Judicial Branch Officials;

- (7) The traveler must account for all advanced payments received pursuant to section 8 of this Act except for meals and incidentals and provide receipts in order to be reimbursed for any other allowable expenses.
- (b) Post-trip travel expense statements are due in the Office of Management and Budget within (30) consecutive days following the completion of the travel.
- (c) A sum advanced or not used for allowable travel expenses is recoverable from the official or his/her estate by;
- (1) Set off against accrued pay, retirement credit, or any other amount due the official;
 - (2) Deduction from any amount due from the Mille Lacs Band; and
 - (3) Such other method as provided for by law.
- (c) The Band may recover any travel funds or disallowed expenditures following the date the post-trip statement is due. Five working days prior to the initiation of any recovery process for funds due the Band, the Secretary/Treasurer or designee shall give written notice of any such recovery process to the official.

Section 13. Airfare.

- (a) Rates for elected and appointed officials are to be based on coach except in the following instances;
- (1) The rates do not exist or are unavailable within a reasonable time; or
 - (2) Less than first class would result in a higher costs because of routing, time urgency, or other unavoidable reasons; or
 - (3) Physical condition of the traveler necessitates use of the first class travel.

Section 14. Application of the Act.

Elected and appointed officials are prohibited from receiving travel payments or reimbursements for travel other than by the provisions of this Act.

Section 15. Effective Date.

This Act shall become effective (30) consecutive days after it is enacted.

Section 16. Intimidation of a Public Official

Any person who commits an offense contained in 24 MLBSA §1101, 24 MLBSA §1102, 24 MLBSA §1104 or MLBSA §1106 against an elected or formerly elected office holder of the

Band motivated primarily by the fact that the official is or was formerly an elected office holder shall be guilty of intimidation of a public official, and upon conviction thereof shall be sentenced to imprisonment for a term of up to one year or a fine of not more than \$5,000 or both.

Ordinance 39-98

Introduced to the Band assembly on this twenty-sixth day of June in the year one thousand nine hundred ninety eight.


Passed by the Band Assembly on this twenty-sixth day of June in the year one thousand nine hundred ninety eight.

APPROVED

Date: 6/30/98

FILED

Date: 6/30/98



David Matrious, Speaker of the Assembly



Marge Anderson, Chief Executive



James Genia, Solicitor General

OFFICIAL SEAL OF THE BAND