

Ordinance 07-17

An Ordinance amending Chapter 5 entitled “Tribal Employment Rights” of Title 18 of the Mille Lacs Band Statutes Annotated (MLBSA) to establish the Tribal Employment Rights Office as an autonomous entity within the government of the Mille Lacs Band of Ojibwe.

The District I Representative introduced the following Bill on the 20th day of July, 2017.

Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Chapter 5 of Title 18 of the Mille Lacs Band Statutes Annotated (MLBSA) to establish the Tribal Employment Rights Office as an autonomous entity within the government of the Mille Lacs Band of Ojibwe.

Title I

Section 1: Section 404 (Definitions) subsection (c) is hereby amended as follows:

§ 404. Definitions

(c) “Commission” or “TERO Commission” means the Commission of the Tribal Employment Rights Office.

Section 2: Section 404 (Definitions) subsection (d) is hereby deleted/struck and is replaced with the following:

§ 404. Definitions

(d) A “Conflict of Interest” occurs when a TERO Commission member is in a position to influence a decision that may result in a personal gain for that member or for a member of his or her Immediate Family.

Section 3: Section 404 (Definitions) subsection (k) is added as follows:

§ 404. Definitions

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

Section 4: Section 404 (Definitions) now reads as follows:

§ 404. Definitions

- (a) “Adverse Action” means an action taken to try to keep an individual from opposing a discriminatory practice or from participating in an employment discrimination proceeding. Adverse actions include termination, refusal to hire, denial of promotion, threats, unjustified negative evaluations, unjustified negative references, increased surveillance or any other action, such as assault or unfounded civil or criminal charge, that are likely to deter reasonable people from pursuing their rights.
- (b) “Band” means the Mille Lacs Band of Ojibwe, a federally recognized Indian tribe, and includes the Band’s government (including all branches, departments and agencies thereof) and all Band-owned entities while they are engaged in commercial or economic activities on behalf of the Band within the Band’s Reservation.
- (c) “Commission” or “TERO Commission” means the Commission of the Tribal Employee Rights Office.
- (d) A “Conflict of Interest” occurs when a TERO Commission member is in a position to influence a decision that may result in a personal gain for that member or for a member of his or her Immediate Family.
- (e) “Core Crew” means regular, permanent employees in supervisory or other key positions where an employer would face serious financial loss if the positions were filled by persons who had not previously worked for that employer.
- (f) “Covered Employer” means the Band and any entity, company, contractor, sub-contractor, corporation or other business doing business with the Band (including subcontractors of persons or entities contracting with the Band) within the Band’s Reservation that employs for wages or other remuneration two (2) or more employees.
- (g) “Days” means calendar days, including holidays and weekends, unless otherwise indicated.
- (h) “Director” means the director of the Band’s Tribal Employment Rights Office.
- (i) “Disability” means, with respect to an individual:
 - (1) a physical or mental impairment that substantially limits one or more major life activities of such individual;
 - (2) a record of such an impairment; or

(3) being regarded as having such an impairment.

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) "Elected Officials" means the Mille Lacs Band Chief Executive, Secretary-Treasurer, and District Representatives.

(l) "Immediate Family" includes a person's spouse, a person's biological or adopted child, a member of a person's household, and a person's mother, father, sister, and brother.

(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 or more Indians and in which daily management and control is provided by one or more Indians.

(o) "Reservation" means all lands within the exterior boundaries of the Mille Lacs Indian 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 MLBSA § 11.

(p) "TERO" means the Band's Tribal Employment Rights Office established by this Chapter.

Section 5: Section 405 (TERO Commission and Recusal of Commission Members) is hereby amended as follows:

§ 405. TERO Commission and Recusal of Commission Members

(a) TERO Commission Members. The TERO shall be managed by the TERO Commission. At all times there shall be at least one Commission Member on the Commission from each District. The Commission shall consist of seven (7) Commission Members as appointed under section 405(a)(1).

(1) Appointment process, terms. Each Member shall be appointed using the following process: The Elected Officials shall each nominate two (2) individuals and submit their names to the Mille Lacs Band Parliamentarian. The Chief

Executive and Secretary-Treasurer of the Band shall each nominate two (2) additional individuals and submit their names to the Mille Lacs Band Parliamentarian. Within ten (10) calendar days after receipt of the nominations, the Elected Officials shall convene and vote on one (1) of the two (2) nominees submitted from each Elected Official to be a Member of the Commission. Members appointed by the Chief Executive and District I Representative shall serve until December 31, 2018, and Members appointed by the Secretary-Treasurer, District II Representative and District III Representative shall serve until December 31, 2020. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four years.

(2) Qualifications. Commissioners shall be public officials subject to the Mille Lacs Band Ethics Code in 6 MLBSA sections 1151 - 1163. At least three of the Commissioners shall have education or experience in one or more of the following areas:

- (A) Human Resources;
- (B) Tribal Employment Rights;
- (C) Construction Management;
- (D) Regulatory Enforcement; or
- (E) Auditing or Investigations.

(3) Officers. The TERO Commission Members shall select a Chair, Vice-Chair, and Secretary at the first meeting of the Commission, and annually thereafter. The Chair shall preside at all meetings of the Commission and shall be authorized to sign required documents in accordance with the powers of the Commission.

Section 6: 406 (Powers and Duties of the TERO Commission, and Compensation) is hereby amended as follows:

§ 406. Powers and Duties of the TERO Commission, and Compensation

- (a) The TERO Commission has the full power, jurisdiction and authority:
 - (1) Take all actions necessary and appropriate to implement the provisions of this Chapter;
 - (2) Approve or reject any and all rules, regulations and/or guidelines formulated by the Director 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 the amendment or rescission thereof;

- (3) 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) Order any relief or sanctions authorized by this Chapter, and to petition the Mille Lacs Band 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) Make recommendations to the Band Assembly on amendments to this Chapter;
- (6) Establish a system for certifying firms as Indian Owned Businesses or Mille Lacs Band Owned businesses;
- (7) Maintain a list of Certified Businesses;
- (8) Assist Band Members in obtaining certification;
- (9) Coordinate training and mentorship programs for Band Members and Indians;
- (10) Monitor all contracting activities on Band Lands in consultation with the Elected Officials;
- (11) 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 employment and contact preference requirements;
- (12) Oversee the Certified Businesses receiving invitations to bid on contracts;
- (13) Establish a Band labor surplus pool and refer Band Members and other Indians to an Employer or Contractor for employment consideration;
- (14) Assist procurement officers or delegated agents in the designation of contracts appropriate for the set aside program;
- (15) Develop and maintain an audit and reporting system which measures the effectiveness of the Indian Preference Policy in meeting its goals and objectives;
- (16) Establish procedures for TERO's regulatory proceedings;
- (17) Establish procedures, forms and policies necessary to carry out the purposes of the Ordinance; and
- (18) Enforce any employment and procurement laws, policies, and/or procedures in accordance with this Chapter.

(b) Compensation. Commission members may receive a stipend for their services at a rate established by the Band Assembly. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses in a manner consistent with applicable Band policies and procedures.

Section 7: Section 407 (Tribal Employment Rights Office; Director) is hereby amended as follows:

§ 407. Tribal Employment Rights Office; Director

There is hereby established as an agency of the Mille Lacs Band of Ojibwe government the Tribal Employment Rights Office (also known as “TERO”). The Director of the TERO shall be an employee of the TERO under the direct supervision of the TERO Commission and shall have the power and duties prescribed in section 408 of this Chapter.

Section 8: Throughout Chapter 5, “Board” is amended to “TERO Commission” or “Commission”.

Ordinance 07- 17
(Band Assembly Bill 17-02-07-17)

Introduced to the Band Assembly on this
Twentieth day of July in the year
Two thousand seventeen.

Passed by the Band Assembly on this
Twentieth day of July in the year
Two thousand seventeen.

Carolyn Beaulieu
Carolyn Beaulieu, Speaker of the Assembly

APPROVED
Date: August 16, 2017

Melanie Benjamin
Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND

Band Assembly Bill 17-02-07-17

A Bill amending Chapter 5 entitled “Tribal Employment Rights” of Title 18 of the Mille Lacs Band Statutes Annotated (MLBSA) to establish the Tribal Employment Rights Office as an autonomous entity within the government of the Mille Lacs Band of Ojibwe.

The District I Representative introduced the following Bill on the 20th day of July, 2017.

Preamble

Be it enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Chapter 5 of Title 18 of the Mille Lacs Band Statutes Annotated (MLBSA) to establish the Tribal Employment Rights Office as an autonomous entity within the government of the Mille Lacs Band of Ojibwe.

Title I

Section 1: Section 404 (Definitions) subsection (c) is hereby amended as follows:

§ 404. Definitions

(c) “Commission” or “TERO Commission” means the Commission of the Tribal Employment Rights Office.

Section 2: Section 404 (Definitions) subsection (d) is hereby deleted/struck and is replaced with the following:

§ 404. Definitions

(d) A “Conflict of Interest” occurs when a TERO Commission member is in a position to influence a decision that may result in a personal gain for that member or for a member of his or her Immediate Family.

Section 3: Section 404 (Definitions) subsection (k) is added as follows:

§ 404. Definitions

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

Section 4: Section 404 (Definitions) now reads as follows:

§ 404. Definitions

- (a) “Adverse Action” means an action taken to try to keep an individual from opposing a discriminatory practice or from participating in an employment discrimination proceeding. Adverse actions include termination, refusal to hire, denial of promotion, threats, unjustified negative evaluations, unjustified negative references, increased surveillance or any other action, such as assault or unfounded civil or criminal charge, that are likely to deter reasonable people from pursuing their rights.
- (b) “Band” means the Mille Lacs Band of Ojibwe, a federally recognized Indian tribe, and includes the Band’s government (including all branches, departments and agencies thereof) and all Band-owned entities while they are engaged in commercial or economic activities on behalf of the Band within the Band’s Reservation.
- (c) “Commission” or “TERO Commission” means the Commission of the Tribal Employee Rights Office.
- (d) A “Conflict of Interest” occurs when a TERO Commission member is in a position to influence a decision that may result in a personal gain for that member or for a member of his or her Immediate Family.
- (e) “Core Crew” means regular, permanent employees in supervisory or other key positions where an employer would face serious financial loss if the positions were filled by persons who had not previously worked for that employer.
- (f) “Covered Employer” means the Band and any entity, company, contractor, sub-contractor, corporation or other business doing business with the Band (including subcontractors of persons or entities contracting with the Band) within the Band’s Reservation that employs for wages or other remuneration two (2) or more employees.
- (g) “Days” means calendar days, including holidays and weekends, unless otherwise indicated.
- (h) “Director” means the director of the Band’s Tribal Employment Rights Office.
- (i) “Disability” means, with respect to an individual:
 - (1) a physical or mental impairment that substantially limits one or more major life activities of such individual;
 - (2) a record of such an impairment; or

(3) being regarded as having such an impairment.

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) "Elected Officials" means the Mille Lacs Band Chief Executive, Secretary-Treasurer, and District Representatives.
- (l) "Immediate Family" includes a person's spouse, a person's biological or adopted child, a member of a person's household, and a person's mother, father, sister, and brother.
- (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 or more Indians and in which daily management and control is provided by one or more Indians.
- (o) "Reservation" means all lands within the exterior boundaries of the Mille Lacs Indian 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 MLBSA § 11.
- (p) "TERO" means the Band's Tribal Employment Rights Office established by this Chapter.

Section 5: Section 405 (TERO Commission and Recusal of Commission Members) is hereby amended as follows:

§ 405. TERO Commission and Recusal of Commission Members

- (a) TERO Commission Members. The TERO shall be managed by the TERO Commission. At all times there shall be at least one Commission Member on the Commission from each District. The Commission shall consist of seven (7) Commission Members as appointed under section 405(a)(1).
 - (1) Appointment process, terms. Each Member shall be appointed using the following process: The Elected Officials shall each nominate two (2) individuals and submit their names to the Mille Lacs Band Parliamentarian. The Chief

Executive and Secretary-Treasurer of the Band shall each nominate two (2) additional individuals and submit their names to the Mille Lacs Band Parliamentarian. Within ten (10) calendar days after receipt of the nominations, the Elected Officials shall convene and vote on one (1) of the two (2) nominees submitted from each Elected Official to be a Member of the Commission. Members appointed by the Chief Executive and District I Representative shall serve until December 31, 2018, and Members appointed by the Secretary-Treasurer, District II Representative and District III Representative shall serve until December 31, 2020. Any subsequent appointment, other than to fill a vacancy that occurs prior to the end of a term, shall be for four years.

(2) Qualifications. Commissioners shall be public officials subject to the Mille Lacs Band Ethics Code in 6 MLBSA sections 1151 - 1163. At least three of the Commissioners shall have education or experience in one or more of the following areas:

- (A) Human Resources;
- (B) Tribal Employment Rights;
- (C) Construction Management;
- (D) Regulatory Enforcement; or
- (E) Auditing or Investigations.

(3) Officers. The TERO Commission Members shall select a Chair, Vice-Chair, and Secretary at the first meeting of the Commission, and annually thereafter. The Chair shall preside at all meetings of the Commission and shall be authorized to sign required documents in accordance with the powers of the Commission.

Section 6: 406 (Powers and Duties of the TERO Commission, and Compensation) is hereby amended as follows:

§ 406. Powers and Duties of the TERO Commission, and Compensation

- (a) The TERO Commission has the full power, jurisdiction and authority:
 - (1) Take all actions necessary and appropriate to implement the provisions of this Chapter;
 - (2) Approve or reject any and all rules, regulations and/or guidelines formulated by the Director 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 the amendment or rescission thereof;

- (3) 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) Order any relief or sanctions authorized by this Chapter, and to petition the Mille Lacs Band 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) Make recommendations to the Band Assembly on amendments to this Chapter;
- (6) Establish a system for certifying firms as Indian Owned Businesses or Mille Lacs Band Owned businesses;
- (7) Maintain a list of Certified Businesses;
- (8) Assist Band Members in obtaining certification;
- (9) Coordinate training and mentorship programs for Band Members and Indians;
- (10) Monitor all contracting activities on Band Lands in consultation with the Elected Officials;
- (11) 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 employment and contract preference requirements;
- (12) Oversee the Certified Businesses receiving invitations to bid on contracts;
- (13) Establish a Band labor surplus pool and refer Band Members and other Indians to an Employer or Contractor for employment consideration;
- (14) Assist procurement officers or delegated agents in the designation of contracts appropriate for the set aside program;
- (15) Develop and maintain an audit and reporting system which measures the effectiveness of the Indian Preference Policy in meeting its goals and objectives;
- (16) Establish procedures for TERO's regulatory proceedings;
- (17) Establish procedures, forms and policies necessary to carry out the purposes of the Ordinance; and
- (18) Enforce any employment and procurement laws, policies, and/or procedures in accordance with this Chapter.

(b) Compensation. Commission members may receive a stipend for their services at a rate established by the Band Assembly. Commissioners shall be reimbursed for actual expenses incurred on Commission business, including necessary travel expenses in a manner consistent with applicable Band policies and procedures.

Section 7: Section 407 (Tribal Employment Rights Office; Director) is hereby amended as follows:

§ 407. Tribal Employment Rights Office; Director

There is hereby established as an agency of the Mille Lacs Band of Ojibwe government the Tribal Employment Rights Office (also known as “TERO”). The Director of the TERO shall be an employee of the TERO under the direct supervision of the TERO Commission and shall have the power and duties prescribed in section 408 of this Chapter.

Section 8: Throughout Chapter 5, “Board” is amended to “TERO Commission” or “Commission”.