



Mille Lacs Band of Ojibwe Indians  
*Legislative Branch of Tribal Government*  
*Office of the Revisor of Statutes*

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## Certificate of Correctness

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- WHEREAS, on June 28, 2018, the Non-Removable Mille Lacs Band of Ojibwe Band Assembly (“Band Assembly”) approved Ordinance 27-18, which amended and replaced Title 26 (Compensation of Elected Officials);
- WHEREAS, on July 2, 2018, the Band Assembly received a veto notification for Ordinance 27-18 from the Chief Executive;
- WHEREAS, on July 5, 2018, the Band Assembly held a compromise hearing with the Chief Executive regarding the veto notification, and a compromise was reached on July 19, 2018;
- WHEREAS, on July 23, 2018, the Chief Executive signed into law Ordinance 27-18, which contained the changes from the compromise hearing;
- WHEREAS, on September 1, 2021, the Band Assembly approved and the Chief Executive signed into law Ordinance 66-21, which amended Title 26 to correct language;
- WHEREAS, according to 25 MLBS § 12, the Revisor shall issue certificates of correctness after comparing any amended sections of Band statutes with previous editions as a method of ensuring that the law is properly reflected in statutes available to the public;
- WHEREAS, pursuant to 25 MLBS § 15, the Revisor is responsible to publish Band statutes; and
- NOW, THEREFORE, as the Band’s Revisor of Statutes, I hereby attest on January 6, 2022, to having compared the enclosed version of Title 26 with any previous versions and certify as to the correctness of the enclosed version.

Enclosures

1. Title 26 – Compensation of Elected Officials
2. Ordinance 27-18
3. Ordinance 66-21

**OFFICIAL SEAL OF THE BAND**



*Anna Valto*  
Anna Valto  
Revisor of Statutes

# Mille Lacs Band Statutes Annotated

Amendments received through: September 1, 2021

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## TITLE 26 – COMPENSATION OF ELECTED OFFICIALS

### Section

1. **Definitions.**
2. **Administration.**
3. **Salary, Salary Increase, Effective Date.**
4. **Severance.**
5. **Pension.**
6. **Pension Loan.**
7. **Withholding of Taxes.**
8. **Notice of Pension and/or Severance Amount, Timing of Benefit, Reduction, Denial or Termination.**
9. **Amendment.**

### § 1. **Definitions.**

The terms defined in this Title shall have the meanings given to them in this section.

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

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 2.

### **§ 2. Administration.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 3.

### **§ 3. Salary, Salary Increases, Effective Date.**

- (a) Newly elected officials, current elected officials, and those returning to elected office shall receive a salary based on the elective office held and the total number of years of service in any elective office.
- (b) Salary levels shall be adjusted annually for each respective elected office in accordance with the following:
  - (1) Chief Executive.  

First year: \$175,000.00

To be adjusted annually in the amount of \$5,000.00.
  - (2) Secretary-Treasurer.  

First year: \$175,000.00

To be adjusted annually in the amount of \$5,000.00.
  - (3) District Representatives.  

First year: \$150,000.00

To be adjusted annually in the amount of \$5,000.00.
- (c) Salary is not to exceed \$240,000.00 after annual adjustments regardless of years/terms of service.
- (d) This salary system is effective for any elected official in office on or after July 10, 2012.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 4.

**§ 4. Severance.**

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

- (b) **Effect of recall, removal, or conviction.** An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary, embezzlement, fraud, or other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their severance reduced, denied, or terminated by majority vote of the Joint Session. Such denial of severance is final and may not be appealed to the Court of Central Jurisdiction.
- (c) Severance pay may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe.
- (d) This section is effective for any elected official in office on or after July 10, 2012, with the exception of any restriction as noted in subsection (b) above.

**Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 5.

**§ 5. Pension.**

- (a) Former elected officials shall receive a monthly pension for a period equal to his or her total cumulative number of years in elective office in the amount prescribed in subsection (d) of this section beginning on the first day of the seventh (7<sup>th</sup>) month after vacating elective office. Each elected official qualified to receive a pension shall designate a beneficiary on the Beneficiary Designation Form and such form shall be kept in a confidential file in the office of the Commissioner of Finance.
- (b) Former elected officials shall qualify for a pension based on the total cumulative number of years served in any elective office according to the dollar amount shown in subsection (d) below.
- (c) **No pension while in elective office.** If an elected official who has been receiving or is scheduled to receive a pension returns to elective office, his/her pension shall be suspended until the elected official vacates elective office. This subsection is not intended to include those amounts that an elected official may access as per the Pension Loan guidelines in § 6 of this Title.
- (d) **Pension amount.** Former elected officials shall receive the following pensions:

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

- (e) **Contingent Option to Accelerate Certain Pension Payments.** Pensioners who have served as elected officials for a cumulative period in excess of five (5) years may accelerate the payment of any monthly payments then due to them which are payable on or after the sixty-first (61<sup>st</sup>) month after the commencement of their Pension pursuant to the terms of subsections (a) through (d) above (the “Acceleration Eligible Payments”) by written notice (the “Acceleration Notice”) to the Commissioner of Finance delivered during an Annual Payment Acceleration Election Period, as hereafter defined.
- (1) The Acceleration Notice shall specify the portion of the Acceleration Eligible Payments then due to such Pensioner that are to be accelerated and paid out currently up to, but no in excess of, the total Acceleration Eligible Payments.
  - (2) An Acceleration Notice will be accepted and honored by the Commissioner of Finance only if received by him or her from a Pensioner then receiving monthly Pension installments during the period commencing on July 1 and ending on July 31 of each year (the “Annual Payment Acceleration Election Period”).
  - (3) Any Acceleration Eligible Payment elected to be paid out currently in an Acceleration Notice shall be paid to the Pensioner not later than thirty days after the close of the Annual Payment Acceleration Election Period in which any Acceleration Notice is delivered.
  - (4) Any portion of the Pensioner’s Pension accelerated pursuant to this subsection shall reduce the electing Pensioner’s future entitlement to a Pension and number of monthly payments in inverse order in which otherwise due. The Commissioner of Finance shall notify the Pensioner of such reduction in future amount and number of installments of the Pension due as a result of the acceleration by written notice delivered with any accelerated payment.
- (f) **Effect of recall, removal, or conviction.** An elected official who has been recalled or removed from elective office by official action for theft, robbery, burglary, embezzlement, fraud, or other similar act against the Band or any Band entity, or has been determined by a court of competent jurisdiction to have committed another similar civil or criminal act against the Band or any Band entity while in elective office, may have their pension reduced, denied, or terminated by a majority vote of the Joint Session. Such denial of a pension is final and may not be appealed to the Court of Central Jurisdiction.
- (g) **Effect of death of former elected official.** If a former elected official dies prior to the end of his/her pension entitlement period, any remaining monthly payments shall be payable to his/her designated beneficiary as named on the Beneficiary Designation

Form. In the case of an individual beneficiary, if the beneficiary dies prior to the end of the Band's obligation to pay monthly pension payments to the beneficiary, the Band's obligation shall end as of the beneficiary's date of death and no further payments will be made. If two or more beneficiaries are designated, the surviving beneficiaries shall be paid the full, or equal to 100%, of the remaining monthly payments.

- (h) **Judicial and administrative garnishment.** Pension may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe. Other than as provided in the prior sentence of this subsection, the interest of any Pensioner prior to payments of his or her pension of this section shall not be subject to the claims of any creditor, spouse, or others, and may not be voluntarily or involuntarily alienated, encumbered, anticipated, assigned, or pledged.
- (i) It is the intent of this section to have an effective date of July 9, 2002, the date that the pension plan for elected officials was initially approved. However, the effective date of the Beneficiary Designation Form shall be June 1, 2013, and the effective date of the elective option to accelerate payments pursuant to subsection (e) shall be July 1, 2018. **It is not intended that this Pension Plan be retroactive for any former elected official who was not in office on this Title's initial effective date of July 9, 2002.**

#### Historical and Statutory Notes

**Source:**

Band Ordinance 27-18, § 6.

#### **§ 6. Pension Loan.**

- (a) Former and current elected officials may apply in writing to the Commissioner of Finance for a loan up to an amount equaling 50% of his/her vested pension, but never more than \$20,000.00.
- (b) All Pension Loans must be paid back to the Pension fund over a period of the lesser of: (1) five (5) years; or (2) the former or current elected official's remaining severance or pension term as of the loan date. The Commissioner of Finance will accept such payments on behalf of the Band.
- (c) Any former or current elected official who requests a Pension Loan must sign a promissory note to the Band.
- (d) Interest on the Note will be charged according to the Wall Street Journal's U.S. Prime Rate in effect at the Note's inception.

- (e) Interest earned on the Note would be credited to the pension account.
- (f) There shall be only one Pension Loan in effect at any one time. Additional borrowings would require a consolidation of old and new amounts into a new Note with new terms according to this Title.
- (g) Monthly payments of principal and interest on the Note will be withheld against the former or current elected official's pension, severance, per capita, and/or payroll payments.
- (h) The Commissioner of Finance will be responsible for administering the granting of and collections on Pension Loans according to the terms of this Title.
- (i) The effective date of this section is May 22, 2012.

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 7.  
Band Ordinance 66-21, § 1.

#### **§ 7. Withholding Taxes.**

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

#### **Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 8.

#### **§ 8. Notice of Pension and/or Severance Amount, Timing of Benefit, Reduction, Denial or Termination.**

- (a) **General notice of amount and timing of benefit.** The Commissioner of Finance shall notify a pensioner or former elected official, within sixty days after vacating elective office, of their eligibility for a pension and/or severance. The notice shall contain the amount of the pension and/or severance, timing of periodic payment, and other pertinent information.
- (b) **Notice for reduction, denial, or termination.** The Commissioner of Finance shall notify a pensioner or former elected official in writing in the event of any change in the amount or timing of their pension and/or severance, or if a pensioner or former elected official is to have a pension and/or severance denied or terminated. The notice shall contain the reasons for the change, denial, or termination.

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 9.

**§ 9. Amendment.**

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

### **Historical and Statutory Notes**

**Source:**

Band Ordinance 27-18, § 10.

## **Ordinance 27-18**

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

The District III Representative introduced the following Bill on the 28<sup>th</sup> day of June, 2018.

### Preamble

It is enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Title 26 (as previously amended by Ordinance 40-13) referred to as the Compensation of Elected Officials numbered in the Mille Lacs Band Statutes as Title 26.

### **Title 26 Compensation of Elected Officials**

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

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

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

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

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

**Section 4. Salary, salary increases, effective date.**

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

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

(1) Chief Executive.

First Year: \$175,000.00

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

(2) Secretary-Treasurer.

First Year: \$175,000.00

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

(3) District Representatives.

First Year: \$150,000.00

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

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

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

**Section 5. Severance.**

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

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

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

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

**Section 6. Pension.**

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

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

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

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

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

(e) Contingent Option to Accelerate Certain Pension Payments. Pensioners who have served as elected officials for a cumulative period in excess of five (5) years may accelerate the payment of any monthly payments then due to them which are payable on or after the sixty-first (61<sup>st</sup>) month after the commencement of their Pension pursuant to the terms of subsections (a) through (d) above (the "Acceleration Eligible Payments") by written notice (the "Acceleration Notice") to the Commissioner of Finance delivered during an Annual Payment Acceleration Election Period, as hereafter defined. The Acceleration Notice shall specify the portion of the Acceleration Eligible Payments then due to such Pensioner that are to be accelerated and paid out currently up to, but not in excess of, the total Acceleration Eligible Payments. An Acceleration Notice will be accepted and honored by the Commissioner of Finance only if received by him or her from a Pensioner then receiving monthly Pension installments during the period commencing on July 1 and ending on July 31 of each year (the "Annual Payment Acceleration Election Period"). Any Acceleration Eligible Payment elected to be paid out

currently in an Acceleration Notice shall be paid to the Pensioner not later than thirty (30) days after the close of the Annual Payment Acceleration Election Period in which any Acceleration Notice is delivered. Any portion of the Pensioner's Pension accelerated pursuant to this subsection shall reduce the electing Pensioner's future entitlement to a Pension and number of monthly payments in inverse order in which otherwise due. The Commissioner of Finance shall notify the Pensioner of such reduction in future amount and number of installments of the Pension due as a result of the acceleration by written notice delivered with any accelerated payment.

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

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

(h) Judicial and administrative garnishment. Pensions may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe. Other than as provided in the prior sentence of this subsection (h) the interest of any Pensioner prior to payments of his or her pension of this Section 6 shall not be subject to the claims of any creditor, spouse, or others, and may not be voluntarily or involuntarily alienated, encumbered, anticipated, assigned or pledged.

(i) It is the intent of this section to have an effective date of July 9, 2002, the date that the pension plan for elected officials was initially approved. However, the effective date of the Beneficiary Designation Form shall be June 1, 2013, and the effective date of the elective option to accelerate payments pursuant to subsection 6(e) shall be July 1, 2018. It is not intended that this Pension Plan be retroactive for any former elected official who was not in office on this Bill's initial effective date of July 9, 2002.

**Section 7. Pension Loan.**

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

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

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

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

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

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

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

Ordinance 27-18  
(Band Assembly Bill 18-01-27-18)

Introduced to the Band Assembly on this  
Twenty-eighth day of June in the year  
Two-thousand eighteen.

Passed by the Band Assembly on this  
Twenty-eighth day of June in the year  
Two-thousand eighteen.

Received VETO notification on this  
Second day of July in the year  
Two thousand eighteen.

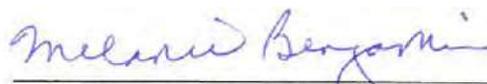
Compromise hearing held on this  
Fifth day of July in the year  
Two thousand eighteen.

Compromise reached on this  
Nineteenth day of July in the year  
Two thousand eighteen.

  
Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: July 23, 2018

  
Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND

## **Band Assembly Bill 18-01-27-18**

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

The District III Representative introduced the following Bill on the 28<sup>th</sup> day of June, 2018.

### **Preamble**

Be it enacted by the Band Assembly of the Mille Lacs Band of Ojibwe for the purpose of amending Title 26 (as previously amended by Ordinance 40-13) referred to as the Compensation of Elected Officials numbered in the Mille Lacs Band Statutes as Title 26.

### **Title 26 Compensation of Elected Officials**

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

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

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

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

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

**Section 4. Salary, salary increases, effective date.**

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

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

(1) Chief Executive.

First Year:           \$175,000.00

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

(2) Secretary-Treasurer.

First Year:           \$175,000.00

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

(3) District Representatives.

First Year:           \$150,000.00

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

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

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

**Section 5. Severance.**

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

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

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

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

**Section 6. Pension.**

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

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

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

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

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

(e) Contingent Option to Accelerate Certain Pension Payments. Pensioners who have served as elected officials for a cumulative period in excess of five (5) years may accelerate the payment of any monthly payments then due to them which are payable on or after the sixty-first (61<sup>st</sup>) month after the commencement of their Pension pursuant to the terms of subsections (a) through (d) above (the "Acceleration Eligible Payments") by written notice (the "Acceleration Notice") to the Commissioner of Finance delivered during an Annual Payment Acceleration Election Period, as hereafter defined. The Acceleration Notice shall specify the portion of the Acceleration Eligible Payments then due to such Pensioner that are to be accelerated and paid out currently up to, but not in excess of, the total Acceleration Eligible Payments. An Acceleration Notice will be accepted and honored by the Commissioner of Finance only if received by him or her from a Pensioner then receiving monthly Pension installments during the period commencing on July 1 and ending on July 31 of each year (the "Annual Payment Acceleration Election Period"). Any Acceleration Eligible Payment elected to be paid out

currently in an Acceleration Notice shall be paid to the Pensioner not later than thirty (30) days after the close of the Annual Payment Acceleration Election Period in which any Acceleration Notice is delivered. Any portion of the Pensioner's Pension accelerated pursuant to this subsection shall reduce the electing Pensioner's future entitlement to a Pension and number of monthly payments in inverse order in which otherwise due. The Commissioner of Finance shall notify the Pensioner of such reduction in future amount and number of installments of the Pension due as a result of the acceleration by written notice delivered with any accelerated payment.

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

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

(h) Judicial and administrative garnishment. Pensions may be garnished only through petitioning the Court of Central Jurisdiction and only for debts owed to the Mille Lacs Band of Ojibwe. Other than as provided in the prior sentence of this subsection (h) the interest of any Pensioner prior to payments of his or her pension of this Section 6 shall not be subject to the claims of any creditor, spouse, or others, and may not be voluntarily or involuntarily alienated, encumbered, anticipated, assigned or pledged.

(i) It is the intent of this section to have an effective date of July 9, 2002, the date that the pension plan for elected officials was initially approved. However, the effective date of the Beneficiary Designation Form shall be June 1, 2013, and the effective date of the elective option to accelerate payments pursuant to subsection 6(e) shall be July 1, 2018. It is not intended that this Pension Plan be retroactive for any former elected official who was not in office on this Bill's initial effective date of July 9, 2002.

**Section 7. Pension Loan.**

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

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

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

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

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

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

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

Ordinance 27-18  
(Band Assembly Bill 18-01-27-18)

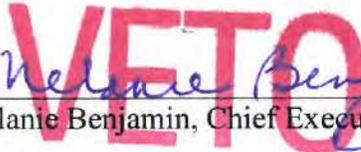
Introduced to the Band Assembly on this  
Twenty-eighth day of June in the year  
Two-thousand eighteen

Passed by the Band Assembly on this  
Twenty-eighth day of June in the year  
Two-thousand eighteen

  
\_\_\_\_\_  
Carolyn Beaulieu, Speaker of the Assembly

APPROVED

Date: \_\_\_\_\_

  
  
\_\_\_\_\_  
Melanie Benjamin, Chief Executive  
July 2, 2018



# MILLE LACS BAND OF OJIBWE

*Executive Branch of Tribal Government*

June 29, 2018

Secretary-Treasurer Carolyn Beaulieu  
cc: Mille Lacs Band Assembly Members  
Mille Lacs Band Assembly  
43408 Oodena Drive  
Onamia, MN 56359

Dear Secretary-Treasurer Beaulieu,

I am in receipt of Bill 18-01-27-18, known as the Compensation of Elected Officials Act. After months of having been accused of keeping this legislation "hidden" from the current Band Assembly and Band Members, all along it was in the files of the Commissioner of Finance.

This bill was introduced by the District III Representative, whom I discussed this issue with. The purpose of these amendments is to expedite payments in a way that will support him due to his failing health. I am very sympathetic to the District III Representative's health issues, but I cannot sign legislation that personally benefits elected officials in any way at the eleventh hour, as this would present the appearance of a clear conflict-of-interest in the eyes of the Band Membership.

In our discussion, the District III Representative and I agreed that I would strongly advocate for passage of this bill with the new Band Assembly when he is no longer serving as an elected official, so as to avoid the appearance of conflict of interest. Therefore, I must am vetoing this bill.

Sincerely,

Melanie Benjamin  
Chief Executive

#### DISTRICT I

43408 Oodena Drive • Onamia, MN 56359  
(320) 532-4181 • Fax (320) 532-4209

#### DISTRICT II

36666 State Highway 65 • McGregor, MN 55760  
(218) 768-3311 • Fax (218) 768-3903

#### DISTRICT IIA

2605 Chimimising Drive • Isle, MN 56342  
(320) 676-1102 • Fax (320) 676-3432

#### DISTRICT III

45749 Grace Lake Road • Sandstone, MN 55072  
(320) 384-6240 • Fax (320) 384-6190

#### URBAN OFFICE

1404 E. Franklin Avenue • Minneapolis, MN 55404  
(612) 872-1424 • Fax (612) 872-1257

## **Ordinance 66-21**

An Ordinance amending Title 26 of the Mille Lacs Band Statutes (“MLBS”) for the purposes of amending § 6 (d), which incorrectly provides that the depository institution for all Mille Lacs Band of Ojibwe elected official pension loans is Wells Fargo.

The District I Representative introduced the following Bill on the 1st day of September, 2021.

### **Section 1: Amending Section 6 (d) of Title 26 – Compensation of Elected Officials**

26 MLBS § 6 (d) is amended as follows:

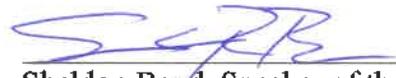
#### **§ 6. Pension Loan.**

- (d) Interest on the Note will be charged according to the Wall Street Journal’s U.S. Prime Rate in effect at the Note’s inception.

**Ordinance 66-21  
(Band Assembly Bill 19-04-66-21)**

Introduced to the Band Assembly on this  
first day of September in the year  
Two thousand twenty-one.

Passed by the Band Assembly on this  
first day of September in the year  
Two thousand twenty-one.

  
Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: September 1, 2021

  
Melanie Benjamin, Chief Executive

**OFFICIAL SEAL OF THE BAND**