



WAGANAKISING ODAWAK
LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS
LEGISLATIVE BRANCH
7500 ODAWA CIRCLE
HARBOR SPRINGS, MI 49740

EFFECTIVE DATE

According to LTBB Constitution – Article VII, (D) 1. They (Statutes) shall be deemed enacted if not expressly vetoed by the Executive within thirty (30) days of submission.

The Executive failed to expressly veto the following Statute: Amendment to Waganaskising Odawak Statute # 2013-010 Fair Employment #2016-007 within 30 days from submission to the Executive Branch thus deemed enacted on September 1, 2016 per LTBB Constitution.

Date: 09/07/16
Tamara Kiogima

Tamara Kiogima

Administrative Assistant
Legislative Branch/Tribal Council
Little Traverse Bay Bands of Odawa Indians
7500 Odawa Circle
Harbor Springs, MI 49740

WAKANAKISING ODAWAK STATUTE # 2016-007
AMENDMENT TO WAGANAKISING ODAWAK STATUTE # 2013-010
FAIR EMPLOYMENT

SECTION I. REPEAL

SECTION XIV. EMPLOYEE HOURS

- A.** Hourly employees are paid at their regular rate of pay and are paid for all hours worked.
- B.** Hourly employee shall not be employed for a workweek longer than forty (40) hours unless such employee receives overtime compensation for the employee's employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which the employee is employed or the employee may choose compensatory time (also referred to as Paid Time Off, PTO) for hours worked in excess of forty (40) hours worked in a work week at a rate not less than one and one-half times the hours worked in excess of forty (40).
- C.** Law Enforcement personnel may work under a "14 day work period". Under a 14 day work period, a police officer is due overtime pay only if, when and to the extent actual hours worked exceed 80 hours in the 14 day work period.
- D.** Exempt employees shall not receive overtime for hours worked in excess of forty (40) hours worked in a work week.
- E.** Exempt employees are generally executive employees, administrative employees, outside sales employees, learned professional employees, computer employees, creative professional employees, highly compensated employees, and meet the following:
1. Executive Employee whose primary duty is management of the enterprise or a recognized department or subdivision. Customarily and regularly directs the work of two or more other employees; AND has authority to hire or fire other employees, OR the employee's suggestions as



to hiring, firing, promotion or other change of status of other employees are given particular weight.

2. Administrative employee whose primary duty is the performance of office or nonmanual work directly related to the management or general business operations of the employer or the employer's customers. Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance. Customarily and regularly exercises discretionary powers and independent judgment in performing the job.

3. Outside Sales employee whose primary duty is making sales or obtaining orders or contracts for services, or for the use of facilities for which a consideration will be paid by the client or customer. The employee is customarily and regularly engaged away from the employer's place or places of business. The salary requirements of this section does not apply.

4. Learned Professional employee whose primary duty is the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character, requiring the consistent exercise of discretion and judgment. The advanced knowledge must be in a field of science or learning and customarily acquired by a prolonged course of specialized intellectual instruction.

5. Computer employee whose primary duty of

a. application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional applications;

b. design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;

c. design, documentation, testing, creation or modification of computer programs related to machine operating systems; or



d. a combination of duties described in (a.), (b.), and (c.), and the performance of which requires the same level of skills.

6. Creative professional employee whose primary duty is the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

7. Highly compensated employee whose is paid at least \$455/week on a salary or fee basis and have a total annual compensation of \$100,000 or more and customarily and regularly perform at least one of the duties of an exempt executive, administrative, or professional employee.

F. For the purposes of interpreting and enforcing this section, the Tribal Court may look to the FLSA and regulations thereunder as well as relevant case law for guidance, provided however that nothing in this Statute shall be construed as an adoption by the Tribe of the FLSA, nor a waiver of sovereign immunity from suit for any claims or process under the FLSA.

SECTION II. REPLACE

SECTION XIV. EMPLOYEE HOURS

A. Hourly employees are paid at their regular rate of pay and are paid for all hours worked.

B. Hourly employee shall not be employed for a workweek longer than forty (40) hours unless such employee receives overtime compensation for the employee's employment in excess of forty (40) hours at a rate not less than one and one-half times the regular rate at which the employee is employed or the employee may choose compensatory time (also referred to as Paid Time Off, PTO) for hours worked in excess of forty (40) hours worked in a work week at a rate not less than one and one-half times the hours worked in excess of forty (40).

C. Law Enforcement personnel may work under a "14 day work period". Under a 14 day work period, a police officer is due overtime pay only if, when and to the extent actual hours worked exceed eighty (80) hours in the 14 day work period.

D. Exempt employees shall not receive overtime for hours worked in excess of forty (40) hours worked in a work week.

E. Exempt employees are generally executive employees, administrative employees, outside sales employees, learned professional employees, computer employees, creative professional employees, highly compensated employees, and meet the following:

1. Executive Employee whose primary duty is management of the enterprise or a recognized department or subdivision. Customarily and regularly directs the work of two or more other employees; AND has authority to hire or fire other employees, OR the employee's suggestions as to hiring, firing, promotion or other change of status of other employees are given particular weight.

2. Administrative employee whose primary duty is the performance of office or nonmanual work directly related to the management or general business operations of the employer or the employer's customers. Primary duty includes the exercise of discretion and independent judgment with respect to matters of significance. Customarily and regularly exercises discretionary powers and independent judgment in performing the job.

3. Outside Sales employee whose primary duty is making sales or obtaining orders or contracts for services, or for the use of facilities for which a consideration will be paid by the client or customer. The employee is customarily and regularly engaged away from the employer's place or places of business. The salary requirements of this section does not apply.

4. Learned Professional employee whose primary duty is the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character, requiring the consistent

exercise of discretion and judgment. The advanced knowledge must be in a field of science or learning and customarily acquired by a prolonged course of specialized intellectual instruction.

5. Computer employee whose primary duty of
 - a. application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional applications;
 - b. design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications;
 - c. design, documentation, testing, creation or modification of computer programs related to machine operating systems; or
 - d. a combination of duties described in (a.), (b.), and (c.), and the performance of which requires the same level of skills.

6. Creative professional employee whose primary duty is the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

7. Employee whose is paid at least \$913 per week (\$47,476 for a full-year worker) or more; and customarily and regularly perform at least one of the duties of an exempt executive, administrative, or professional employee.

8. Employee who has an annual earnings are \$134,004 or more which may include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned; and customarily and regularly perform at least one of the duties of an exempt executive, administrative, or professional employee.

F. Employers may count nondiscretionary bonuses, incentives, and commissions toward up to 10 percent of the required salary level for the standard exemption, so long as employers pay those amounts on a quarterly or more frequent basis.

G. For the purposes of interpreting and enforcing this section, the Tribal Court may look to the FLSA and regulations thereunder as well as relevant case law for guidance, provided however that nothing in this Statute shall be construed as an adoption by the Tribe of the FLSA, nor a waiver of sovereign immunity from suit for any claims or process under the FLSA.

SECTION III. EFFECTIVE DATE

Effective upon signature of the Executive or 30 days from Tribal Council approval whichever comes first or if the Executive vetoes the Statute, then upon Tribal Council override of the veto, but shall not be implemented until January 1, 2017.



CERTIFICATION

As the Tribal Council Treasurer and Tribal Council Secretary, we certify that this Statute was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on July 28, 2016 at which a quorum was present, by a vote of 7 in favor, 0 opposed, 0 abstentions, and 1 absent as recorded by this roll call:

| | In Favor | Opposed | Abstained | Absent |
|----------------------|----------|---------|-----------|--------|
| Frank Bernard | | | | X |
| David Harrington | X | | | |
| Beatrice A. Law | X | | | |
| Dexter McNamara | X | | | |
| Michael J. Naganashe | X | | | |
| Julia A. Shananaquet | X | | | |
| Marcella R. Reyes | X | | | |
| Aaron Otto | X | | | |

Date: 7-29-2016 Marcella R. Reyes
 Marcella R. Reyes, Treasurer

Date: 7-28-2016 [Signature]
 Aaron W. Otto, Secretary

Received by the Executive Office on 8-2-16 by [Signature]

Pursuant to Article VII, Section D, Subsection 1 of the Little Traverse Bay Bands of Odawa Indians Constitution adopted on February 1, 2005, the Executive concurs with this action of the Tribal Council.

Date: _____
 Regina Gasco Bentley, Tribal Chairperson