

**WAGANAKISING ODAWAK STATUE 2005-016
ENJINAAKNEGENG**

SECTION I. PURPOSE

As a Tribal government facing a myriad of short and long term legal issues in addressing its relations with other governments and entities as well as its own operations, LTBB requires legal services to, and representation of, the Tribe to protect and enhance Tribal sovereignty, treaty rights, federal statutory rights, and enhance internal governmental operations and services. Under the interim constitution the tribal council funded a legal department as part of its governmental administration budget. The legal department reported to and worked under the direction of the tribal council and tribal chairman. The tribal chairman (aka "president" under interim constitution) was a voting member of the tribal council which served as a single branch of government carrying out both legislative and executive functions. The Constitution adopted by the Tribal membership on February 1, 2005, which was deemed approved by the Secretary of the Interior on March 18, 2005, creates separate legislative and executive branches of government under Articles VII and VIII, as well as a separate judicial branch under Article IX. The purpose of this Statute is to set out the roles and functions of the Legal Department now that the new Constitution is fully in effect in a way the honors the separation of powers while efficiently utilizing Tribal resources for the benefit of the membership.

SECTION II. CREATION OF LEGAL DEPARTMENT

- A. Pursuant to Article VII (D) (22) of the Constitution the Tribal Council approves the creation of an Executive department to be known as Enjinaaknegeng which may also be referred to in English as Legal Department (hereafter in this Statute "Department"). It shall be the duty of the Department to provide legal services and counsel to and representation of LTBB on all legal matters as directed by the Tribal Chairperson (including work with subordinate Tribal entities as directed by the Chairperson) including, but not limited to, legislative drafting, negotiations with federal, state, local and tribal governmental entities, issues relating to gaming and other economic development, reserved Treaty rights, Indian Child Welfare (in state courts to the extent not handled by the Prosecutor under the Constitution), and any litigation in Tribal, state

or federal courts involving these or other areas. The Department may also utilize outside attorneys and consultants as approved by the Chairperson within a budget adopted by Tribal Council.

- B.** The Department will consist of a general counsel, and such other attorneys and staff as provided for in a budget approved by Tribal Council. The 2005 budget for the Department shall be that appropriated by the previous tribal council. The 2006 Department budget shall be as previously approved or as may be modified by Tribal Council under applicable law.
- C.** Unspent annual budgeted funds for the Legal Department shall carry over to the following year. Each year the Legal Department may budget for expenditure the cumulative amount of prior years appropriated and unspent funds. Any carryover funds not expended will be carried to future years indefinitely unless otherwise re-appropriated by the Tribal Council.
- D.** The current contracts with the general counsel and tribal attorneys shall remain in effect except they may be modified to fit the Constitution and this Statute.
- E.** In accordance with Constitution Article VII (D)(14) future attorney contracts must be approved by the Tribal Council.

SECTION III. INTERACTION WITH BRANCHES OF GOVERNMENT

- A. Status as Executive Department.** The Department shall report directly to the Tribal Chairperson and Vice-Chairperson. It shall assist the Chairperson, Vice-Chairperson and Executive Departments as directed by the Chairperson. In the event that any Executive officials or staff are sued in their official capacity, the Department shall defend such suits upon approval of the Chairperson.
- B. Applicability of Attorney/Client privilege to communication with Legislative Branch.** The Department represents the interests of the Tribe as directed and implemented through the Executive Branch. When the Legal Department reports to, or shares information with, the Tribal Council on any matters that require Tribal Council action, such as litigation, inter-governmental negotiations, and real estate transactions, such communications and information are fully subject to the attorney/client privilege.

- C. **Conflict of Interest.** It shall be unethical conduct for an attorney employed under this Statute to give advice on the constitutionality of actions taken by the Tribal Council or the Executive Branch requested by the other branch unless both parties agree in advance in the form of a resolution.

SECTION IV. SAVINGS CLAUSE

In the event that any section, subsection or phrase of this Statute is found by a court of competent jurisdiction to violate the Constitution or laws of the Little Traverse Bay Bands of Odawa Indians, such part shall be considered to stand alone and to be deleted from this Statute, the entirety of the balance of the Statute to remain in full and binding force and effect so long as the overall intent of the Statute remains intact.

SECTION V. EFFECTIVE DATE

This Statute takes effect thirty (30) days from its enactment.

CERTIFICATION

As Tribal Council Secretary and Legislative Leader, we certify that this Statute was duly enacted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on December 18, 2005 at which a quorum was present, by a vote of 7 in favor, 2 opposed, 0 abstentions, and 0 absent as recorded by this roll call:

	In Favor	Opposed	Abstained	Absent
Dexter McNamara	X			
Rita Shananaquet		X		
Alice Yellowbank	X			
Regina Gasco Bentley	X			
Fred Harrington, Jr.	X			
Mary Roberts	X			
Shirley Oldman		X		
Melvin L. Kiogima	X			
Beatrice Law	X			

Date: 12/18/05

Melvin L. Kiogima, Secretary

Date: 12/18/05

Beatrice Law, Legislative Leader

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 in this action of the Tribal Council.

Date: 12-18-2005

Frank Ettawageshik, Tribal Chairperson

