



Little River Band of Ottawa Indians

375 River Street
Manistee, MI 49660
(231) 723-8288

Resolution No. #01-1219-07

Establishing Permanent Benefits for Government Officials

WHEREAS, the Tribe's status as a federally-recognized Indian tribe was reaffirmed and restored by Congress pursuant to Public Law 103-324, 108 Stat. 2156 (25 U.S.C. 1300k et seq.); and

WHEREAS, the Tribe adopted a new Constitution, pursuant to a vote of the membership on May 27, 1998, which Constitution became effective upon its approval by the Assistant Secretary-Indian Affairs on July 10, 1998; and

WHEREAS, the Tribal Council is, pursuant to Article IV, Section 7(i)(2) of the Constitution, authorized to manage any funds within the exclusive control of the Tribe and, subject to ratification by the Tribal Ogema, is authorized to appropriate such funds for the benefit of the Tribe and its members; and

WHEREAS, the Tribal Council has provided appropriation of funds for the salaries of government officials as part of the Tribal Government's Operating Budget; and

WHEREAS, the Tribal Council has authorized the salary level of the Tribal Ogema under resolution # 00-1111-08 as set forth in Article V, Section 5(b) of the Constitution which shall not be diminished during the Tribal Ogema's term of office; and

WHEREAS, the Tribal Council has authorized the salary level of Councilors under resolution # 00-1111-07 at a level consistent with legislative compensation; and

WHEREAS, the Tribal Council has determined that setting the permanent benefits of government officials - Tribal Judges, Tribal Ogema, and Tribal Council - is necessary in order to participate in retirement plans and health insurance plans which creates incentives for individuals to participate in Tribal government; and

WHEREAS, prior resolutions may not have clearly authorized participation in these plans at the time of their adoption; and

WHEREAS, the legal status of elected or appointed government officials as "employees", for purposes of relevant provisions of the Internal Revenue Code which affect the eligibility of elected and appointed government officials to participate in these plans has been in question; and

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WHEREAS, the Tribal Council has received a legal opinion which confirms that all the government officials identified above - Tribal Judges, Tribal Ogema, and Tribal Council - are "common law employees" who are, under applicable sections of the Internal Revenue Code, eligible to participate in these plans.

NOW THEREFORE IT IS RESOLVED THAT the Tribal Council of the Little River Band of Ottawa Indians hereby confirms the status of appointed Tribal Judges, the Tribal Ogema and Tribal Council members as "common law employees" of the Tribe for purposes of Subchapter D of Chapter 1 of Subtitle A of the Internal Revenue Code, as recognized in Technical Advice Memorandum 199906001, issued by the Internal Revenue Service (IRS).

IT IS FURTHER RESOLVED THAT the confirmation of the "common law employee" status of elected Tribal officials, including the Tribal Ogema and Tribal Council, shall not be deemed to alter the application of IRS Revenue Ruling 59-354 to amounts paid to such elected officials for services performed by those officials in their respective elected offices.

IT IS FURTHER RESOLVED THAT the Tribal Council hereby confirms and authorizes, on a permanent basis, the participation of government officials - Tribal Judges, Tribal Ogema, and Tribal Council - in the retirement plan(s) implemented by the Tribe and in health insurance benefits, including dental, vision, or other health related plans at levels consistent with all other employees.

IT IS FINALLY RESOLVED THAT appointed members of Committees, Commissions, or Boards, who receive a meeting stipend for service on Committees, Commissions, or Boards, shall continue to be excluded from the scope of this Resolution until the responsibilities and manner of compensation for such persons is altered by subsequent legislative action.

CERTIFICATE OF ADOPTION

I do hereby certify that the foregoing resolution was duly presented and adopted by the Tribal Council with 8 FOR, 0 AGAINST, 1 ABSENT, and 0 ABSTAINING, at a Regular Session of the Little River Band of Ottawa Indians' Tribal Council held at the Little River Band Community Center on December 19, 2001, in Manistee, Michigan, with a quorum being present for such vote.



Janine M. Sam, Council Recorder

Attest:



Stephen Parsons, Council Speaker

Distribution: Council Records
Tribal Ogema
Tribal Court
Chief Financial Officer
Legal Department