

ORDINANCE 28
Tribal Government Labor Ordinance

Section 1. Findings

The Saginaw Chippewa Indian Tribe of Michigan is a federally recognized Indian Tribe and has the inherent sovereign right to regulate activities involving its members and occurring on its lands. The Tribe finds:

- (a) That the sovereign right to regulate activities involving its members and occurring on its lands is particularly important with respect to labor relations of government and business activities.
- (b) That the United States Congress has not specifically divested the Tribe of its inherent sovereign right to regulate labor relations on its lands.
- (c) Given its inherent authority over employment and labor relations on the Reservations, the tribal regulation of employment on the Reservation and the longstanding federal policy protecting tribal self-government and promoting tribal self-sufficiency, the Tribe finds that the NLRA does not apply to the tribal government as an employer. Application of the NLRA to the tribal government as an employer would substantially impair the ability of the Tribe to exercise its sovereign authority, including undermining tribal laws, subjecting the tribal government to the threat of strikes and disrupting the tribal governments ability to provide essential services to the community.
- (d) That an important aspect of Tribal self-sufficiency and economic development is the Tribe's long standing policy regarding Indian preference adopted in 1998.
- (e) That the Tribe is a legitimate sovereign government that is recognized by the United States Executive, Legislative, and Judicial Branches.
- (f) That the Tribe provides numerous essential governmental services that benefit members and nonmembers.
- (g) That the Tribal Government operates business enterprises that provide essential funds for maintaining governmental infrastructure and services in the same way that tax revenues provide such funds for city, state, and federal governments.
- (h) That Tribal enterprises on Tribal lands provide opportunities for employment but also affect the Tribe and its membership in a significant number of ways.
- (i) That the relationship between employers and employees on Tribal lands is of critical concern to the Tribe and the consistent operation of Tribal programs and government.

- (j) That the right of employees to organize into labor organizations and to strike could inflict substantial harm to the Tribal government and the provision of essential services to tribal members and nonmembers.
- (k) That the regulation of the right to organize into labor organizations and to strike will benefit employees by providing them with an uninterrupted opportunity to work and obtain economic benefits.
- (l) That the right to regulate labor relations is essential in order to promote tribal economic development, self-sufficiency, and a strong tribal government.
- (m) It is in the best interest of the Tribe to continue to provide competitive benefits to its employees and deal directly with its employees regarding wages, hours and other terms and conditions of employment, and that it is in the best interests of employees and the Tribe, as an employer, to maintain these direct relations.
- (n) Since 1934, the United States government has consistently strengthened its policy of protecting tribal self-government and promoting tribal economic self-sufficiency through legislation, including, but not limited to the Indian Self-Determination and Education Assistance Act of 1975, 25 USC §§ 450 *et seq.* ("the United States is committed to supporting and assisting the Indian tribes in the development of strong and stable tribal governments, capable of administering quality programs and developing the economies of their respective communities"); the Indian Tribal Justice Act of 1993, 26 USC § 3601 ("the United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government"); the Indian Financing Act of 1974, 25 USC § 1451 ("to help develop and utilize Indian resources, both physical and human, to a point where the Indians will fully exercise responsibility for the utilization and management of their own resources"); the Tribal Self-Governance Act of 1994, 25 USC §§ 450a, 458aa *et seq.* ("transferring control to tribal governments...over funding and decision making for Federal programs, services, functions and activities strengthens the Federal policy of Indian self-determination"); and the Indian Gaming Regulatory Act of 1988, USC §§ 2701 *et seq.* ("to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency and strong governments.").
- (o) The Tribe has various departments, subdivisions, agencies chartered entities within its government, including the tribal gaming operation known as the Soaring Eagle Casino and Resort which operates under the Tribal Council's control and oversight and is regulated by the Tribal Gaming Commission. As provided by the Indian Gaming Regulatory Act, the Tribe's gaming operation funds the tribal government including various governmental services such as police, fire, utilities, education, the judicial system, environmental, health, social services and parks and recreational facilities.

Section 2. Policy

It is the consistent overall policy of the Saginaw Chippewa Tribe of Michigan, in order to protect its right to self-government and promote and preserve its economic development and security, to exercise its inherent rights to regulate labor relations as to Tribal governmental operations and enterprises owned by the Tribe within the Tribe's Indian country. Such regulation is a government function vitally important to maintaining the integrity of the Tribe as a self-governing sovereign. Further, it is policy of the Tribe to protect itself from internal economic and social disruption caused by worker strife associated with labor organizations and strikes. This Labor Relations Ordinance is enacted pursuant to these important tribal policies.

Section 3. Applicability

This ordinance shall apply to all divisions of the Tribal government and to all Tribal enterprises.

Section 4. Labor Organizations and Strikes

There shall be no right on behalf of employees of divisions of the Tribal government and Tribal enterprises to form or join labor organizations for purposes of collective bargaining or mutual aid. The Tribe shall not be obligated to recognize any labor organization or to bargain with such organization. There shall be no right on behalf of employees of divisions of the Tribal government and Tribal enterprises to engage in strikes, work stoppages, work slow-downs, boycotts, or similar activities.

Section 5. Tribal Court Jurisdiction

The tribal court shall have jurisdiction to consider actions relating to violations and enforcement of this ordinance. The tribal court shall have the authority to issue injunctions, restraining orders, and other forms of equitable relief, and may use the power of contempt to enforce its orders. There shall be no fines for violations of this ordinance, other than fines that might be associated with contempt proceedings.

Section 6. Effective Date

This ordinance shall be immediately effective upon approval by the Saginaw Chippewa Tribal Council.

LEGISLATIVE HISTORY

TRIBAL GOVERNMENT LABOR ORDINANCE. Enacted October 24, 2007 by Resolution No. 08-020.