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State of Minnesota

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HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2173

02/21/2023 Authored by Becker-Finn, Keeler, Kozlowski, Moller, Frazier and others
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
03/20/2023 Adoption of Report: Placed on the General Register as Amended
Read for the Second Time

1.1 A bill for an act
1.2 relating to public safety; modifying law enforcement of Mille Lacs Band of
1.3 Chippewa Indians; modifying requirements for Tribes to exercise concurrent law
1.4 enforcement jurisdictional authority; amending Minnesota Statutes 2022, sections
1.5 626.90, subdivision 2; 626.91, subdivisions 2, 4; 626.92, subdivisions 2, 3; 626.93,
1.6 subdivisions 3, 4; repealing Minnesota Statutes 2022, section 626.93, subdivision
1.7 7.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2022, section 626.90, subdivision 2, is amended to read:

1.10 Subd. 2. Law enforcement agency. (a) The band has the powers of a law enforcement
1.11 agency, as defined in section 626.84, subdivision 1, paragraph (f), if all of the requirements
1.12 of clauses (1) to (4) are met:

1.13 (1) the band agrees to be subject to liability for its torts and those of its officers,
1.14 employees, and agents acting within the scope of their employment or duties arising out of
1.15 a law enforcement agency function conferred by this section, to the same extent as a
1.16 municipality under chapter 466, and the band further agrees, notwithstanding section 16C.05,
1.17 subdivision 7, to waive its sovereign immunity for purposes of claims of this liability;

1.18 (2) the band files with the Board of Peace Officer Standards and Training a bond or
1.19 certificate of insurance for liability coverage with the maximum single occurrence amounts
1.20 set forth in section 466.04 and an annual cap for all occurrences within a year of three times
1.21 the single occurrence amount;

1.22 (3) the band files with the Board of Peace Officer Standards and Training a certificate
1.23 of insurance for liability of its law enforcement officers, employees, and agents for lawsuits
1.24 under the United States Constitution; and

2.1 (4) the band agrees to be subject to section 13.82 and any other laws of the state relating
2.2 to data practices of law enforcement agencies.

2.3 (b) The band ~~shall~~ may enter into mutual aid/cooperative agreements with the Mille
2.4 Lacs County sheriff under section 471.59 to define and regulate the provision of law
2.5 enforcement services under this section. ~~The agreements must define the trust property~~
2.6 ~~involved in the joint powers agreement.~~

2.7 (c) Only if the requirements of paragraph (a) are met, the band shall have concurrent
2.8 jurisdictional authority under this section with the Mille Lacs County Sheriff's Department
2.9 ~~only if the requirements of paragraph (a) are met and under the following circumstances:~~

2.10 (1) ~~over all persons in the geographical boundaries of the property held by the United~~
2.11 ~~States in trust for the Mille Laes Band or the Minnesota Chippewa tribe;~~

2.12 (2) ~~over all Minnesota Chippewa tribal members within the boundaries of the Treaty of~~
2.13 ~~February 22, 1855, 10 Stat. 1165, in Mille Lacs County, Minnesota; and.~~

2.14 (3) ~~concurrent jurisdiction over any person who commits or attempts to commit a crime~~
2.15 ~~in the presence of an appointed band peace officer within the boundaries of the Treaty of~~
2.16 ~~February 22, 1855, 10 Stat. 1165, in Mille Laes County, Minnesota.~~

2.17 Sec. 2. Minnesota Statutes 2022, section 626.91, subdivision 2, is amended to read:

2.18 Subd. 2. **Law enforcement agency.** (a) The community has the powers of a law
2.19 enforcement agency, as defined in section 626.84, subdivision 1, paragraph (f), if all of the
2.20 requirements of clauses (1) to (4) are met:

2.21 (1) the community agrees to be subject to liability for its torts and those of its officers,
2.22 employees, and agents acting within the scope of their employment or duties arising out of
2.23 the law enforcement agency powers conferred by this section to the same extent as a
2.24 municipality under chapter 466, and the community further agrees, notwithstanding section
2.25 16C.05, subdivision 7, to waive its sovereign immunity with respect to claims arising from
2.26 this liability;

2.27 (2) the community files with the Board of Peace Officer Standards and Training a bond
2.28 or certificate of insurance for liability coverage with the maximum single occurrence amounts
2.29 set forth in section 466.04 and an annual cap for all occurrences within a year of three times
2.30 the single occurrence amount;

3.1 (3) the community files with the Board of Peace Officer Standards and Training a
3.2 certificate of insurance for liability of its law enforcement officers, employees, and agents
3.3 for lawsuits under the United States Constitution; and

3.4 (4) the community agrees to be subject to section 13.82 and any other laws of the state
3.5 relating to data practices of law enforcement agencies.

3.6 (b) The community ~~shall~~ may enter into an agreement under section 471.59 with the
3.7 Redwood County sheriff to define and regulate the provision of law enforcement services
3.8 under this section and to provide for mutual aid and cooperation. If entered, the agreement
3.9 must identify and describe the trust property involved in the agreement. For purposes of
3.10 entering into this agreement, the community shall be considered a "governmental unit" as
3.11 that term is defined in section 471.59, subdivision 1.

3.12 Sec. 3. Minnesota Statutes 2022, section 626.91, subdivision 4, is amended to read:

3.13 Subd. 4. **Peace officers.** If the community complies with the requirements set forth in
3.14 subdivision 2, paragraph (a), the community is authorized to appoint peace officers, as
3.15 defined in section 626.84, subdivision 1, paragraph (c), who have the same powers as peace
3.16 officers employed by the Redwood County sheriff over the persons and the geographic
3.17 areas described in subdivision 3.

3.18 Sec. 4. Minnesota Statutes 2022, section 626.92, subdivision 2, is amended to read:

3.19 Subd. 2. **Law enforcement agency.** (a) The band has the powers of a law enforcement
3.20 agency, as defined in section 626.84, subdivision 1, paragraph (f), if all of the requirements
3.21 of clauses (1) to (4) and paragraph (b) are met:

3.22 (1) the band agrees to be subject to liability for its torts and those of its officers,
3.23 employees, and agents acting within the scope of their employment or duties arising out of
3.24 the law enforcement agency powers conferred by this section to the same extent as a
3.25 municipality under chapter 466, and the band further agrees, notwithstanding section 16C.05,
3.26 subdivision 7, to waive its sovereign immunity for purposes of claims arising out of this
3.27 liability;

3.28 (2) the band files with the Board of Peace Officer Standards and Training a bond or
3.29 certificate of insurance for liability coverage with the maximum single occurrence amounts
3.30 set forth in section 466.04 and an annual cap for all occurrences within a year of three times
3.31 the single occurrence amount or establishes that liability coverage exists under the Federal
3.32 Torts Claims Act, United States Code, title 28, section 1346(b), et al., as extended to the

4.1 band pursuant to the Indian Self-Determination and Education Assistance Act of 1975,
4.2 United States Code, title 25, section 450f(c);

4.3 (3) the band files with the Board of Peace Officer Standards and Training a certificate
4.4 of insurance for liability of its law enforcement officers, employees, and agents for lawsuits
4.5 under the United States Constitution or establishes that liability coverage exists under the
4.6 Federal Torts Claims Act, United States Code, title 28, section 1346(b) et al., as extended
4.7 to the band pursuant to the Indian Self-Determination and Education Assistance Act of
4.8 1975, United States Code, title 25, section 450F(c); and

4.9 (4) the band agrees to be subject to section 13.82 and any other laws of the state relating
4.10 to data practices of law enforcement agencies.

4.11 (b) ~~By July 1, 1998,~~ The band ~~shall~~ may enter into written mutual aid or cooperative
4.12 agreements with the Carlton County sheriff, the St. Louis County sheriff, and the city of
4.13 Cloquet under section 471.59 to define and regulate the provision of law enforcement
4.14 services under this section. If entered, the agreements must define the following:

4.15 (1) the trust property involved in the joint powers agreement;

4.16 (2) the responsibilities of the county sheriffs;

4.17 (3) the responsibilities of the county attorneys; and

4.18 (4) the responsibilities of the city of Cloquet city attorney and police department.

4.19 Sec. 5. Minnesota Statutes 2022, section 626.92, subdivision 3, is amended to read:

4.20 Subd. 3. **Concurrent jurisdiction.** The band shall have concurrent jurisdictional authority
4.21 under this section with the Carlton County and St. Louis County Sheriffs' Departments over
4.22 crimes committed within the boundaries of the Fond du Lac Reservation ~~as indicated by~~
4.23 ~~the mutual aid or cooperative agreements entered into under subdivision 2, paragraph (b),~~
4.24 ~~and any exhibits or attachments to those agreements~~ if the requirements of subdivision 2,
4.25 paragraph (a), are met, regardless of whether a cooperative agreement pursuant to subdivision
4.26 2, paragraph (b), is entered into.

4.27 Sec. 6. Minnesota Statutes 2022, section 626.93, subdivision 3, is amended to read:

4.28 Subd. 3. **Concurrent jurisdiction.** If the requirements of subdivision 2 are met ~~and the~~
4.29 ~~tribe enters into a cooperative agreement pursuant to subdivision 4,~~ the Tribe ~~shall have~~ has
4.30 concurrent jurisdictional authority under this section with the local county sheriff within
4.31 the geographical boundaries of the Tribe's reservation to enforce state criminal law.

5.1 Sec. 7. Minnesota Statutes 2022, section 626.93, subdivision 4, is amended to read:

5.2 Subd. 4. **Cooperative agreements.** In order to coordinate, define, and regulate the
5.3 provision of law enforcement services and to provide for mutual aid and cooperation,
5.4 governmental units and the Tribe ~~shall~~ may enter into agreements under section 471.59.
5.5 For the purposes of entering into these agreements, the Tribe ~~shall be~~ is considered a
5.6 "governmental unit" as that term is defined in section 471.59, subdivision 1.

5.7 Sec. 8. **REPEALER.**

5.8 Minnesota Statutes 2022, section 626.93, subdivision 7, is repealed.

626.93 LAW ENFORCEMENT AUTHORITY; TRIBAL PEACE OFFICERS.

Subd. 7. **Exception; Prairie Island Indian Community.** Notwithstanding any contrary provision in subdivision 3 or 4, the Prairie Island Indian Community of the Mdewakanton Dakota tribe has concurrent jurisdictional authority under this section with the local county sheriff within the geographical boundaries of the community's reservation to enforce state criminal law if the requirements of subdivision 2 are met, regardless of whether a cooperative agreement pursuant to subdivision 4 is entered into.