



Notes for a Submission

By

Joan Jessome

President

**Nova Scotia Government and General
Employees Union**

To the

Law Amendments Committee

On

Bill 100

Labour Board Act

November 30, 2010

Introduction

Thank you and Good Afternoon. My name is Keiren Tompkins and I am the Executive Director for NSGEU. Unfortunately, our President Joan Jessome was unable to attend this meeting with other pressing commitments. She asked me to come to speak on her behalf. With me is Ray Larkin who is our legal counsel from Pink Larkin and Ian Johnson who is a Servicing Coordinator/Policy Analyst for the Union. We appreciate this opportunity to speak to the Law Amendments Committee about Bill 100, better known as the *Labour Board Act*.

The Nova Scotia Government and General Employees Union is the largest union in the province. We have the privilege of representing 29,000 public and private sector employees. We are pleased to see a number of long-overdue changes to labour legislation finally being made with this Bill. They are already well-established in other jurisdictions. We are here to support these changes because they will greatly improve and modernize labour relations in this province.

We participated in the public consultation process that took place before this bill was introduced with respect to the proposed new Labour Board. Our President met with the Deputy Minister of Labour and Workforce Development on June 30 to be advised of the proposed new Labour Board. We also responded on September 30 to a discussion paper on this topic released by the Department in July.

New Labour Board

The centerpiece of this Bill is the merger of six previously separate boards into a new Labour Board. If the Bill is passed in its present form, the Labour Relations Board, the Civil Service Employee Relations Board, the Highway Workers' Employee Relations Board and the Correctional Facilities Employee Relations Board will become the new Labour Board by 2011. In the following months, the Occupational Health and Safety Appeal Panel and the Labour Standards Tribunal would join the Labour Board.

We support the concept of the proposed new Board. We agree with the stated strengths of this concept, namely, greater consistency, reduced time frames, and enhanced accessibility, accountability, transparency, and efficiency. We also understand that most other provinces have already moved to change their labour boards to have a much broader mandate.

We also have no problem with unionized labour issues and labour standards issues being dealt with by the same board provided all cases are fully heard in a timely manner and provided there is no move to deal with one area at the expense of the other. We understand that there will be no reductions in the number of staff associated with the current six boards that may be consolidated into the one new board.

The key to the effectiveness of the new proposed Board will be the members of the Board, especially its full-time Chair. We agree with the need for a full-time Chair considering the wider range of responsibilities falling under the mandate of the new Board. We also

agree that it should be a position appointed by the Executive Council for a five-year term through the existing public appointments process.

We further agree with the need for appointing part-time Vice-Chairs to help handle the expanded mandate. We further agree that the Vice-Chairs should be appointed through the existing public appointments process as they are currently.

We believe that the tripartite nature of the current Labour Relations Board should be continued with separate labour and management representatives appointed to the new Board. The labour representatives should be nominated by the Nova Scotia Federation of Labour.

The tripartite board model has worked well in Nova Scotia such as on the Labour Standards Tribunal and the Occupational Health and Safety Appeal Panel. The nominees of the NSFL have been mostly leaders or retired leaders of unions who are interested in just treatment of employees whether they are unionized or not. The new full-time Chair will need the support of labour and management

representatives to be successful. We feel the expertise and experience of labour and management representatives is needed along with the Chair or a vice-chair serving as chair of a panel.

We were also concerned about the possible elimination of the Occupational Health and Safety Appeal Panel because we wondered how the specialized knowledge and expertise of this Panel would be acquired and maintained if it became part of the new Board.

However, we think that this issue can be resolved if any panels set up for occupational health and safety appeals are constituted with members of the Board with knowledge and experience in this area.

Elimination of Arbitral Lists

Following through on commitments made by the government during the recent civil service negotiations, Bill 100 makes a number of other important changes to improve labour relations such as eliminating the list of arbitral items in both the *Civil Service Collective Bargaining Act* and in the *Highway Workers Collective Bargaining Act*. This will mean all terms and conditions can be resolved through arbitration,

and not restricted or considered to be off-limits. Having the ability to resolve all outstanding issues will improve labour relations in the public sector and allow us to achieve what has already been in place under the *Trade Union Act*.

This resolves a major problem in our civil service negotiations where our members do not have the right to strike. In several sets of negotiations, there have been major delays because we could not easily resolve with the employer what can or cannot be taken to arbitration. Schedule B in the *Civil Service Collective Bargaining Act* was a limited list of what could be arbitrated and thus, there were many terms and conditions about which there could be dispute with no ability to resolve. To fully ensure there will be no disputes in future negotiations, we want to make sure that all references to arbitral items are removed from the relevant acts in this Bill.

Extending Successor Rights

Another important change for us that will help improve labour relations is ensuring successor rights for our civil service members

who may be directly affected by a transfer of business from government to a public or private employer. This will ensure their current collective agreement and their current bargaining agent will be maintained.

Section 31 of the Trade Union Act currently provides that where an employer transfers a business or part of a business to another employer and the employees are covered by a collective agreement, the collective agreement is binding on the new employer. Similar provisions are in all of the major labour relations statutes across Canada. In Nova Scotia, the Trade Union Act applies to all private employers and to all of the broader public sector such as municipalities, school boards, hospitals and the Liquor Corporation. It is a standard mainstream provision in labour legislation in Canada.

The *Trade Union Act* does not apply to direct government employees. However, over the last two decades, the Province has devolved major elements of the public service to other employers, and in every case, provision has been made for the continued application of collective agreements to the employees of the services transferred to

new employers. Some examples include the transfer of the VG Hospital from the Province to the Queen Elizabeth II Health Sciences center and then, the transfer of the Nova Scotia Hospital to the QE2. In addition, the Nova Scotia Community College was moved out of the provincial government to its present form. Collège de l'Acadie was amalgamated with Université Sainte-Anne. Nova Scotia Business Inc was devolved from the provincial government to an arm's length status. And provincial property assessors were moved to a new entity called the Property Services Valuation Corporation which is controlled by the municipalities.

In every one of these transfers of services to new employers, special legislation was enacted to preserve collective agreements covering the employees delivering those services. On some occasions, services have been transferred out of the civil service by arrangements that preserved collective agreements without special legislation. For example, public health and drug dependency services went to the District Health Authorities as did assessments for home care and long term care. The collective agreements covering employees who provided those services were preserved.

All of these examples of preserving collective agreements were the result of decisions by recent Liberal and Conservative governments. Successor rights is not a political issue but is the result of a virtually universal policy of all governments in Canada that employees covered by a collective agreement should not lose their existing rights when their employer transfers a business to another employer. Adding "Her Majesty " to the list of employers who are bound by successor rights simply codifies the long practice of Nova Scotia governments to apply successor rights to their own transfers of a business to other employers.

Labour Management Review Committee

For us, another provision of Bill 100 that helps to improve labour relations is the setting up of a Labour Management Review Committee. It will have equal representation from labour and management, and will be able to review all existing labour relations legislation and recommend possible future amendments. It will also advise the government on labour relations issues.

To be as clear as possible, the purpose of the Labour management review committee is to improve labour relations . Its mandate includes reviewing the Trade Union Act and other "labour relations statutes" as directed by the Minister. This means the *Civil Service Collective Bargaining Act*, *Corrections Act*, *Highway Workers Collective Bargaining Act* and the *Teachers Collective Bargaining Act*. There is no reason to have non-union employers or employees on such a committee. They do not engage in labour relations and have no reason to improve labour relations. They have nothing to do with the labour relations statutes.

Conclusion

All in all, we are pleased to see Bill 100 come forward. We welcome the formation of the new Labour Board and the Labour Management Review Committee, but we are especially pleased to see the elimination of arbitral lists and the extension of successor rights to direct government employees. All of these changes will greatly help

to improve and modernize labour relations, and to bring us in line with current practices in almost every other jurisdiction in the country.

We thank you for this opportunity and we look forward to your questions and comments.