



**Notes for a Submission**  
**By**  
**Joan Jessome**  
**President**  
**Nova Scotia Government and General**  
**Employees Union**

**To the**  
**Law Amendments Committee**  
**On**  
**Bill 102**  
**Trade Union Act (amended)**  
**An Act to Prevent Unnecessary Labour**  
**Disruptions and Protect the Economy**

**November 29, 2011**

## Introduction

Thank you and Good Afternoon. My name is Joan Jessome and I am the President of the Nova Scotia Government and General Employees Union.

With me are five of our Local Presidents who have had recent experiences in negotiating first collective agreements for their bargaining units. We appreciate this opportunity to speak to the Law Amendments Committee about Bill 102 and the importance of First Contract Arbitration.

We are the largest union in Nova Scotia with 30,000 members who provide a wide range of public services to Nova Scotians. These include employees in the provincial civil service and district health authorities as well as correctional facilities, universities, school boards, residential care facilities, long term care facilities, home care, liquor stores, and many other public services.

We have a long-standing interest in labour law reform and as a result, our Executive Director is serving on the Labour Management Review Committee. We have also participated in the public consultation process last year that took place with respect to a proposed Labour Board, and again, this year on First Contract Settlement.

We support Bill 102 which provides for the inclusion of an option for arbitration of first collective agreements in the *Trade Union Act*, and,

in particular, we support the enactment of the Manitoba model of first contract arbitration that includes a made-in-Nova Scotia provision.

First contract arbitration has existed in Canada for more than three decades. It should be enacted in Nova Scotia. Eighty-five percent of employees in Canada other than direct government employees are governed by labour laws that include some form of first contract arbitration.

One of the biggest problems in labour relations in Nova Scotia is the inordinate delay taken to conclude collective agreements. Nowhere is this more damaging to labour relations than the excessive and unreasonable delays in concluding a first collective agreement after the certification of a union.

We often receive requests from groups of employees to assist them to organize for collective bargaining. We are very committed to the right of employees to decide for themselves whether or not they will become a certified bargaining unit with us. As a result, we will only submit an application for certification to the Labour Board when at least 65 per cent of employees in a given workplace support such an application. If we are successful with such an application, we then attempt to bargain a first collective agreement.

It is difficult to negotiate a first collective agreement. The parties have the challenging task of codifying the terms and conditions of employment for the first time in any bargaining unit. This difficulty is

exacerbated by the inexperience of the employer. There may be residual hostility from the organizing campaign. Union members may have unrealistic expectations as to what can be achieved in a first collective agreement. Employers are often very reluctant to give up their control of the terms of employment and they resist change.

Employees are extremely frustrated by the amount of time it takes to reach an agreement. Staff turnover weakens the union's ability to establish an effective bargaining relationship with the employer. Employees get disciplined or fired or otherwise disciplined without recourse to a grievance procedure. All of these factors in turn make it more difficult to conclude the first collective agreement.

We support the model of first contract arbitration proposed in Bill 102 based on the Manitoba model with a made-in-Nova Scotia provision. We welcome the idea of having a conciliator contact the parties within 14 days of being certified to provide information and education to them to assist in the settlement of a first agreement. The use of Manitoba's automatic model maximizes the potential for early voluntary settlement of an initial collective agreement following certification without a work stoppage. Under the Manitoba model, in cases where first collective agreement arbitration was engaged, collective agreements were concluded within six months of certification.

The efficiency and the success of the Manitoba model of first contract arbitration has the additional benefit of creating an incentive for

parties to conclude a first collective agreement in a timely manner to avoid the potential of the imposition of terms of employment by a third party. Even where first contract arbitration is sought in Manitoba, half of the applications lead to a voluntary settlement within the time frames provided in the Act.

We believe that the enactment of first contract arbitration in Nova Scotia based on the Manitoba model with a made-in-Nova Scotia provision will result in significant improvements in one of the most important labour relations problems in our system. First collective agreements are likely to be concluded within a reasonable time, and the endemic excessive and unreasonable delays in concluding collective agreements will no longer be practical. Collective bargaining relationships will strengthen. Employees who have chosen to join a union can have their legitimate and reasonable expectations for collective bargaining fulfilled.

## **Conclusion**

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Our experience is a case in point. Out of 38 collective agreements listed which were eventually ratified since 1985, only 12 took one year between certification and signing, and 26 took more than one year. Of that 26, 15 took more than 18 months and 9 took more than 24 months.

None of the employers on the list are strongly anti-union or employers who use every trick in the book to avoid concluding a collective

agreement. Most of the employees in these bargaining units were frustrated and disillusioned. Instead of the first collective agreement constituting a firm foundation for an effective collective bargaining relationship, it created difficulties that had to be resolved in future rounds of bargaining.

I will now ask each of the other five people present with me to explain who they are and how having First Contract Arbitration would have helped in their recent negotiations:

- Michelle Keeping, 1<sup>st</sup> Vice-President, Local 41, Northwood Bedford Inc.
- Melissa Perry, President, Local 47, Metropolitan Regional Housing Authority
- Sam Kaiser, President, Local 50, Sherbrooke Village
- Mike Thompson, President, Local 60A, Pictou County District Planning Commission
- Mark MacDonald, Chief Steward, Local 61, Canadian Association of Community Living, Antigonish Branch.

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- Notes from Rebecca Crouse (President of Local 61, First Student Canada) who could not attend which I will read. It is attached at the end of our submission.

## **Conclusion**

All in all, we are pleased to see Bill 102 come forward. The provisions are already in place for the vast majority of employees in Canada. It will help address a long-standing problem in labour

relations in this province, namely, lengthy delays in concluding first collective agreements. It has nothing to do with increasing unionization but in creating a much more stable labour relations environment. This bill should help attract new investment and new jobs in this province. It is also an important step forward in updating and modernizing labour legislation in this province.

We thank you for this opportunity to speak on Bill 102, and we look forward to your questions and comments.

Presentation to Law Amendments Committee on Bill 102  
(As Part of NSGEU Submission)

By

Rebecca Crouse

President of Local 61, First Student Canada

We are Local 98. First Student Canada, Kings County: 106 school bus drivers and mechanics.

Even though, we were certified in March 2010 our negotiations did not start until the following September of that year and we did not reach an agreement until September 2011, almost 18 months after we became Local 98. And if we had not had an 86% strike vote we would still have no contract. Our fight was for wage parity and job protection.

The company took advantage of there being no law to govern negotiations in reference to time. They continually cancelled dates causing prolonged periods between bargaining sessions using distance, illness and personal commitments as their excuse. This created a great deal of frustration among our members because they could not understand why the bargaining was taking so long. And we, the executive could not give them any answers to their questions because we had the same questions....why?

Why wasn't there a time guideline and why did it take the threat of a strike to settle a first contract. The company also used this 18 month period to undermine the union and to target the obvious union supporters. I was continually, subtly harassed, a regional councillor was dismissed and a member of bargaining was targeted, as well. If you were a union supporter your job was continuously scrutinized.

We had 18 months of this treatment. 18 months of uncertainty! If Bill 102 is implemented than no other new union entering into first time contract negotiations will have to endure what we endured. Good faith bargaining may actually become a reality.