



Notes for a Submission

By

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To the

Law Amendments Committee

On

Bill 17

Financial Measures (2012) Act

May 3, 2012

Introduction

Thank you and Good Afternoon. I appreciate this opportunity to speak to the Law Amendments Committee about Bill 17 – Financial Measures (2012) Act, the budget implementation legislation.

The Nova Scotia Government and General Employees Union is the largest union in the province. We have the privilege of representing 30,000 public sector employees. We were pleased to see this Bill come forward, and in general, we have no concerns with the pension parts of this Bill, that is, for Schedules A and B.

However, we have come here today to comment on the Transitional Provisions of the *Nova Scotia Pension Services Corporation Act* under Schedule 1e A. These Provisions are found in Sections 39 to 44 on pages 11 and 12 of the Bill.

Overall, almost half (that is, approximately 13,000) of our 30,000 members are members of the PSSP. In fact, our members make up approximately 80 percent of the active members in the Plan. At the same time, we represent 30 employees of the Nova Scotia Pension Agency. As their bargaining agent, we want to protect their rights, benefits, and entitlements when they are moved to the new Pension Corporation.

We also have a long history of involvement with the Public Service Superannuation Plan or PSSP, mostly in an advisory capacity. During the past year and a half, we have been part of the stakeholder consultations towards a new *Public Service Superannuation Act* found in Schedule B and the new *Public Services Pension Corporation Act* found in Schedule A.

Transitional Provisions

Turning to the Transitional Provisions of Schedule A, our initial preference would have been for our members who work with the Pension Agency to remain in the civil service. However, the scheme of these provisions is to remove civil service status from the designated employees of the Nova Scotia Pension Agency and establish their employment with the Nova Scotia Pension Services Corporation and preserve all of their employee benefits and entitlements in their employment relationship with the Corporation.

We have no concern about Sections 39 and 40. We are also pleased with Section 41 about participation of employees in the PSSP. Section 41 (1) provides for the continued participation of the designated employees in the PSSP, and Section 41 (2) provides for the participation of future employees in the same Plan.

However, we are concerned the absence of similar measures to protect employees' entitlement to a public service award, their continued participation in the Nova Scotia Public Service Long Term Disability Plan, and their continued group life coverage under the Province of Nova Scotia Group Life Assurance Plan, and for continued health and dental coverage under the Consolidated Health and Dental Plan.

As you may be aware, there have been several statutes over the last twenty years which have devolved services provided by civil servants to corporate entities outside of the civil service. These statutes have, to varying degrees, protected employees who accompany the devolved services. The most recent statute of this sort was the *Nova Scotia Agricultural College Act*, S.N.S. 2008 c. 7. These statutes generally provide for the protections of successor rights offered by

Section 31 of the *Trade Union Act*, but they also offer additional protections for specific benefits and entitlements.

Public Service Award

Section 43 of the *Nova Scotia Agricultural Act* directly addressed the preservation of employees' rights to a public service award upon their transfer from the civil service to an entity outside of the civil service. Section 43 of the Act provides as follows:

43 Where, at retirement from the College, a designated person would have been eligible for a public service award either under a collective agreement concluded pursuant to the Civil Service Collective Bargaining Act or under the General Civil Service Regulations made under the Civil Service Act if the person had remained as an employee of the Province,

(a) the Province shall pay to the person, upon retirement, an amount equivalent to the amount of the public service award that it would have paid to the person for the person's years of employment with the Province; and

(b) the College shall pay an amount equivalent to the amount of public service award that would have been paid by the Province if the person had remained as an employee of the Province, less the amount paid pursuant to clause (a). 2008, c. 7, s. 43.

This provision protects both the accrued rights of a civil servant to a public service award and entitlement to a public service award with the new entity. We believe Section 39(7) of Bill 17 is designed to protect benefits accumulated while employed by the Crown and should therefore protect any accrued public service award, but it does not assure the employee that the Nova Scotia Pension Services Corporation would continue the public service award.

The nature of the public service award requires that it apply to all years of service pre and post devolution to the new agency. The award is a payment made upon retirement based on the total years of service. The purpose of the award is undermined if it does not relate to the employee's

total service. Section 43 of the *Nova Scotia Agricultural College Act* addresses these issues and protects the public service award.

The general purpose of the transitional provisions in Bill 17 is to preserve all employee benefits and entitlements including their service upon devolution of the Nova Scotia Pension Agency to the new corporation. To achieve this goal, the particular circumstances of public service award require a provision similar to Section 43 of the *Nova Scotia Agricultural College Act*.

Long-Term Disability Plan

The *Nova Scotia Agricultural College Act* also includes a provision for the continuation of application of the Nova Scotia Public Service Long Term Disability Plan to civil servants transferred to the new corporation. This is a

provision which has been common in devolution statutes over a lengthy period of time. Section 45 of the *Nova Scotia Agricultural College Act* provides as follows:

45 Subject to any applicable collective agreement or contract of employment, each designated person who was covered by the Nova Scotia Public Service Long Term Disability Plan before the coming into force of this Act or was included in a bargaining unit whose collective agreement provided for long term disability benefits under the Nova Scotia Public Service Long Term Disability Plan is, subject to the approval of the Trustees of the Nova Scotia Public Service Long Term Disability Plan, deemed to continue to be a person to whom the Nova Scotia Public Service Long Term Disability Plan applies, unless the College, with the agreement of the bargaining agent representing the employees of the College, establishes its own long term disability plan. 2008, c. 7, s. 45.

Bill 17 does not include any provision for the continued application of the Nova Scotia Public Service Long Term Disability Plan. An entity outside of government cannot automatically receive coverage under that plan. A legislative

measure is necessary to assure the continued coverage of the plan. Section 45 of the *Nova Scotia Agricultural College Act* provides that the new entity can establish its own long term disability plan with the agreement of the bargaining agent. Section 45 provides a transition to protect and preserve participation in the LTD Plan in order to prevent a future employer from changing it. Such protection is absent from Bill 17 and should be included.

Group Life, Health and Dental Benefits

The *Nova Scotia Agricultural College Act* contains provisions in Section 46 for group life, as well as for medical and dental plan coverage of the designated persons. Bill 17 should include a provision for group life coverage of the designated persons under the Province of Nova Scotia Group Life Assurance Plan, and for health and dental coverage under

the Consolidated Health and Dental Plan, as for employees of the Province.

Conclusion

We therefore urge you to propose amendments to Bill 17 dealing with public service awards, the Long Term Disability Plan, and group life and health and dental benefits, which reflect the approach taken in the *Nova Scotia Agricultural College Act*.

We wrote to the Minister of Finance on May 1 about these amendments, but have not yet received a reply. In our view, they are fairly simple and straightforward amendments which we hope you will seriously consider. We would appreciate your assistance in helping to achieve them.

We thank you for this opportunity. We would be pleased to answer any questions you may have.

Conclusion

We therefore urge you to propose amendments to Bill 17 dealing with public service awards, the Long Term Disability Plan, and group life and health and dental benefits, which reflect the approach taken in the Nova Scotia Agricultural

College Act.

We wrote to the Minister of Finance on May 7 about these amendments, but have not yet received a reply. In our view, they are fairly simple and straightforward amendments which we hope you will seriously consider. We would appreciate your assistance in helping to achieve them.