

Submission to Law Amendments Committee on Bill 56

7 November 2016

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Four years ago, the Liberal Party of Nova Scotia promised that, if elected, it would "appoint an Accessibility Advisory Committee with a mandate and a strict timeline to develop accessibility legislation for NS."

Immediately upon election, the new minister, to her credit, appointed that committee: a group of distinguished Nova Scotians with deep knowledge of the barriers to accessibility in our province, which has aptly been called "The Alabama of accessibility."

The minister's committee also included representatives of Nova Scotia businesses experienced in the challenges of achieving accessibility. It included representatives from 10 government departments and commissions.

The committee established five subcommittees with an even wider range of citizens and business people to look the built environment, transportation, communications, employment, and public awareness.

The committee consulted widely, then reported back in June 2015. It produced a good report. There were compromises, to be sure, but on the whole, a job well done.

Your government greeted the report with enthusiasm and praise. Minister Joanne Bernard said it, "will lead us to a place where barriers in all facets of life are torn down, and opportunities are built. Accessibility is the right of all Nova Scotians."

Then, suddenly, all went quiet. The campaign to tear down barriers went behind closed doors for the murky process of legislative drafting. It emerged 17 months later, in the dying days of the current legislative session, as a pale shadow of the commitments made in the Minister's Advisory report.

What the hell happened? How could a shining promise of your government, a commitment with the full-throated support of the minister, a cause that appears to have the sincere backing of your premier... how could it lead to a bill that is so seriously deficient, a bill that flies in the face of so many committee recommendations, a bill that falls so far short of what's required.

You are going to get an earful today about how disrespectful this committee has been to people with disabilities in its rushed handling of Bill 59.

I got a call at 12:30 p.m. Friday notifying me of this hearing. One half business day's notice. Do you know how much notice is required to book the Metro Transit Access-a-Bus? Seven days.

It also happens that this hearing coincides with a hearing about to get underway at the Law Courts this morning. Five distinguished disability rights activists are appealing the Nova Scotia Human Rights Commission's refusal to accept a complaint against the Department of Environment and the Medical Officer of Health for their discriminatory enforcement of the Food Safety Regulations.

Most, if not all of the plaintiffs will make submissions to this committee on this bill. The timing of this hearing forces them, and me, to choose between attending this hearing or attending their Human Rights appeal. I know this wasn't intentional, but it's the kind of thing that happens when you don't take time to consult people.

[By the way, the Legislative Counsel Office very kindly agreed to schedule me in at 10 so I could duck down to the Law Courts before 11. But this bill is so important, I may just stay here to listen to the rest of the presentations.]

Consider, too, a friend of mine—a wheelchair user who has experienced barriers to accessibility all his life. I urged my friend to attend today's hearings and share their insights with you. My friend considered coming over the weekend, then wrote me back yesterday.

Parker, I agree with everything you've said about this bill, but I am dependent on the Community Services for so many aspects of my life. I simply can't take the risk of testifying.

Now this person is no pushover. My friend is an ardent defender of their right to accessibility. But they are too fearful of retribution to appear before you today.

When we say the constituency for this bill includes the most vulnerable members of our society, it is not some theoretical construct. The vulnerability is real, and it affects people you wouldn't expect.

What's wrong with the bill? You will hear many submissions on that score today, from people far more knowledgeable and experienced than I. I will provide a written submission with more detailed suggestions. But let me hit two highlights.

Number 1: Section 3(1)(k) places responsibility for the Act under the Minister for Community Services. That's directly contradicts the recommendation of the Minister's Advisory Committee.

Community Services is the wrong place for this Act. It treats accessibility as matter of *noblesse oblige*, a patronizing offer to help the disadvantaged, a medicalized problem requiring social assistance.

Accessibility is none of those things. It is a right, enshrined in the Canadian Charter of Rights and Freedoms, detailed in the United Nations Convention on the Rights of People with Disabilities.

It is a matter of justice, Madam Chair, and it belongs with your department, the Department of Justice, alongside its companion legislation, the Human Rights Act.

If you don't want to explicitly put it in Justice, use the wording of the Nova Scotia Human Rights Act:

"Minister' means the member of the Executive Council who is charged with the administration of this Act by the Governor in Council."

Number 2: Section 22(2)(a) requires a separate economic impact assessment for every new standard established under this bill. Not a socio-economic impact assessment, but a purely economic assessment. This is a new barrier to accessibility, erected by this act. It does not exist now.

Can you name any other human right that faces such a barrier? Has your right to vote ever been subjected to an economic impact assessment? Your right to attend church? Your right to speak your mind in this chamber or in any other forum?

I draw your attention to the words of the minister when she released the report of her advisory committee:

"Instead of looking at the cost of doing this," said Joanne Bernard, "We have to focus on the cost of NOT doing this."

How about assessing the massive ongoing cost of lost employment opportunities, of neglected human capital, of perpetual welfare, of unnecessary, uninvited dependency?

Section 22(2)(c), requiring "a progressive timeline which takes into account the resources required to comply" likewise gives undue emphasis toward the costs with no balancing consideration for the benefits.

Those are just two of this bill's many shortcomings. Other speakers will tell you about others.

I know what some people will say: Perfection is the enemy of the good. Better a bill that needs improvement than no bill at all. If we delay passage until spring, there is a good chance an election will intervene and put us back to square one.

I appreciate those concerns. Perfection is often the enemy of the good. But not this time. This time, mediocrity is the enemy of the good. Failed promises are the enemy of the good. Third-rate is the enemy of the good.

So let's not wait until spring. Let's take the time now to fix this. So what if the legislature doesn't rise Thursday, but instead takes the week and the weekend to bring this bill up to the standard promised by the Minister's advisory committee.

This bill is your legacy as legislators. This bill can be what your time in office will be remembered for 50 years from now. This can be the accomplishment your children will cite when they tell their children how proud they are of you.

Get it right.

Get it right.

Take the time now to get it right.

Appendix:

Other potential improvements to Bill 59 (adopted from the submission of Warren (Gus) Reed.)

Section	Change
Preamble	add AND WHEREAS the talents, potential and energies of people with disabilities are underestimated and underutilized.
10	add Accept and investigate complaints of unimplemented standards in a timely and efficient manner
12	add Monitor, prototype and introduce technological innovations add offer price concessions to local government through volume discounts
16	Note Four meetings a year bears the unmistakable promise of perpetual consultation, an endless dance where little is accomplished It reminds me of the former Coordinating Council of Ministers responsible for The Disabled Persons Commission. They met 6 times in 3,956 days. With such a shameful precedent, this Board should meet monthly, and attendance should be mandatory.
17	add Identify practical incentives for standards implementation and assess their economic impact.
21 2 (a)	add A summary of the impact of the standard upon rights enumerated in the Charter, The UN Treaty and the Nova Scotia Human Rights Act change A progressive timeline which takes into account both the immediate costs of implementation and the long term economic benefits, including government revenue and commercial activity.
21 3	add The cost of not adopting the standard
30	Note Sections 30 and 31 risk the invention of arbitrary classes. As in the building code, the temptation will be to carve out groups to whom standards do not apply. It might be tempting to exempt museums for example; they are sometimes in older buildings, and operate on tight budgets. But short-term relief in the form of exemptions invites long-term disaster for tourism (7 million New Englanders with disabilities), for culture, for history, for employment. Short-sighted expediency is usually a bad choice. 30(c) is particularly dangerous in that regard, and we recommend that it be removed.
45	Note Where is the compliance and enforcement function located? It should lie with the directorate