



BILL NO. 85

An Act to Amend Chapter 18 of the Acts of 1998, the Municipal Government Act, Respecting Cape Breton Regional Municipality

Members of Legislative Committee Ladies & Gentlemen

Thank you for the opportunity to speak to you today on this important issue.

I would like to begin by providing some background – this will help explain the reasons for my appearance here today before Law Amendments.

The Municipality of the District of Guysborough is proud of our record of providing quality local government to our residents. I have been on Municipal Council for the past 24 years – the past 6 as Warden.

During this time we have witnessed an economic transformation – from one of the poorest Municipalities in NS to a strong, vibrant Municipality that is now the focus of multiple large-scale industrial development projects – 5 of whom are poised to make a Final Investment Decision in 2018 and all of whom will bring significant benefits to the Province of Nova Scotia.

In the early 1990's our region was faced with the impacts of the closure of community fish processing facilities as well as the mechanization of the forestry. As a result, our economy was hit hard. Schools, hospitals, small businesses were hit hard.

In the late 1990's there was renewed interest in the Nova Scotia Offshore. After many years of promise, the Sable Offshore Energy Project was launched and Goldboro was chosen as the landfall site for the development. This decision was made based on geography and economics – not on any incentives provided by Government.

The Province of Nova Scotia collected over \$2 billion in royalties during the 20 years of Sable Operation. This money was shared by all Nova Scotians and funded health care, education, roads, social services, etc. In addition, over \$2.8 Billion was spent in Nova Scotia on goods and services.

The \$3.5 Billion dollar capital cost project also had a tremendous impact on the Municipality of the District of Guysborough. The Goldboro Gas Plant and associated pipeline infrastructure had a total capital cost of approximately \$500 Million. In Nova Scotia, machine & equipment is exempt from property taxation but approximately \$225 Million was added to the assessment roll of the Municipality. Like all Municipal taxes, approximately forty percent of taxes collected flow through directly to the Province. The Sable partners – at the time led by Mobil Canada and Shell understood that property taxation was part of the cost of any viable business operation.

Our position related to Sable and any other development proposed for the Municipality has always been that we expect investors to be good corporate citizens – and to pay taxes like anyone else doing business in our community.

As a direct result of the Sable project, our Municipality has been able to diversify our sources of revenue and diminish our reliance on property taxation. Currently, property taxation only comprises approximately 35% of our annual revenue – the balance comes from business operations – Sable Wind; our 2nd Generation Landfill Operation; and our Industrial Property transactions.

Today, we are on the verge of an unprecedented scale of investment decisions - \$11 Billion in 2018.

What has attracted this level of investment interest? In part it is simply nature – deep water harbours, large tracts of available and properly zoned industrial land and also

part physical built infrastructure – particularly pipeline transportation infrastructure.

The Municipality has played a significant role in attracting this investment interest – we have worked closely with the Province – Nova Scotia Business Inc. and Nova Scotia Department of Energy in particular to market investment opportunities to the World.

We have invested millions of tax-payers dollars in preparing the investment climate. We have had numerous property transactions with the Province of Nova Scotia and with private land-owners to acquire land for development purposes. Every piece of property we acquired or sold was at Market Value. No credible, responsible developer has ever complained about paying market value for land. In fact, it has been our experience that those seeking incentives such as land or tax-breaks are simply non-viable business ventures – anyone can start a business and promise to create jobs if Government removes the risks.

The amendments proposed in this Bill represent a thinly-veiled attempt to create a business case that should be determined by the Private sector. If you need land for a dollar, tax holidays, \$100 million from government for upgrading a railway, \$40 million from government for harbour dredging, and probably an ice breaker stationed there for three months in winter – doesn't sound much like a sound business case to our Municipality.

We have been supportive of previous Government involvement in aid of existing businesses. A prime example of such a role for Government was the New Page/Port Hawkesbury Paper situation. What made that circumstance so different was that it was an existing operation directly employing approximately 500 individuals; and, it was not creating a competition between regions within Nova Scotia. If the Government had not assisted with the Mill it would have simply closed – it was not going to move to another region of Nova Scotia.

Passing of this Bill will bring Nova Scotia back to the 1970's – a time when Government thought it could influence investment by creating industrial parks and erecting buildings, investing in wharves, etc. Today local Municipalities are left with empty buildings and costly, unused infrastructure. It appears we have learned nothing. There may be a time for Government to get involved and fulfill its role in assisting with public infrastructure – that time is after private sector has lead with its money – after a Final Investment Decision has been made.

In our Municipality we are fortunate to have Pieridae Energy poised to make a Final Investment Decision on a \$10 Billion LNG Liquefaction facility. Pieridae have paid millions of dollars to acquire land – and they paid full market value. We have no tax agreements! They will need a short (3 or 4 km) road replaced. The NS Government has told them they will make no commitment to provide support in advance of a Final Investment Decision.

The Melford Atlantic Gateway is a \$400 million private sector lead development for a new Container Terminal/ Logistics Park at Melford in the Strait of Canso. The Melford group stands on the verge of a Final Investment Decision within months. They have purchased land from the Province, Municipality of Guysborough and Private Land Owners – in all cases they paid full market value. We have negotiated a Community Benefits Agreement that provides no provision for tax concessions. And, they are financing the construction of a rail corridor to the terminal.

Both of these examples – Pieridae (or Goldboro LNG as it is better known) and Melford stand as prime examples of the inherent unfairness of the amendments proposed today. It is impossible to argue that the effect of this amendment is intended to do anything else other than tilt the field in favor of one region of Nova Scotia over others.

As far as the silly argument that the Province is willing to look at similar requests from other Municipalities to provide the same provisions outlined in the Amendment,

this simply ignores the fact that there was no consultation on this issue outside of CBRM and that the effect will be that future investors that have already chosen to come to Nova Scotia will then simply “shop” their development to Municipalities to see who will provide the greatest concessions. How does Nova Scotia win in this scenario? There is a reason that Local and Atlantic Chambers of Commerce oppose these Amendments – it makes no business sense and is viewed as purely political. We have not encountered a single government bureaucrat that supports these proposed Amendments.

As is required under the Municipal Government Act, the Minister is required to give Municipalities 12 months’ notice of any provincial legislation, regulation or administrative actions that could have the effect of decreasing revenues or increasing the required expenditures of Municipalities. I have attached the two most recent letters from the Minister to Municipalities, one dated March 23, 2017 and a second dated October 27,

2017 and in neither does the Minister reference any content related to Bill 85.

After selling land to the two developments referenced in this speech for more than \$6 Million and collecting full taxation from them, we will lose significantly going forward as we will have to seek the same legislation as CBRM just to compete. Our finances will suffer dramatically. All Municipalities will hurt financially, as they too will have to seek to have the same ability to cut deals, and we'll all be competing with each other. Everyone will now lose financially. With this legislation and the Minister's intent to allow other Municipalities to have the same ability, the official 'Race to the Bottom' has begun. In this case, with no notice, and no consultation with the Federation of Nova Scotia Municipalities or any other Municipality except CBRM, the Minister has contravened his own legislation.

Our legal team has advised us that the Province of Nova Scotia should also be concerned that the proposed amendments to the Municipal Government Act giving a

“Special Charter” to CBRM are in violation of provisions of Chapter 11 of the North American Free Trade Agreement (“NAFTA”). These amendments to the MGA would unjustly and disproportionately impact the United States-based investors of the proposed Melford Atlantic Gateway container terminal and logistics park and provide for a successful claim for damages under NAFTA.

NAFTA Article 1102 regarding National Treatment, Article 1103 regarding Most-Favored Nation Treatment, and Article 1105 regarding Minimum Standard of Treatment may be violated by these proposed MGA amendments. Under these NAFTA provisions, governments, including provincial governments, are required to treat the investors from NAFTA parties as favourably as they treat, in like circumstances, their own investors and investments, or any other foreign investors or investments. It is clear that the investors of the Melford Atlantic Gateway would not receive fair and equitable treatment if these proposed MGA amendments were passed. Such amendments would give preferential treatment to the investors of a

proposed container project in the CBRM by allowing the transfer of property at less than fair market value and by allowing CBRM to give preferential tax treatment

If these legislative amendments go forward as proposed, both the Province of Nova Scotia and the Government of Canada could face serious financial impacts, as the affected investors have a right to make a claim to a NAFTA tribunal for their losses. As the Province may be aware from cases concerning Bilcon of Delaware, Inc. and AbitibiBowater Inc., settling these claims can be very costly, with amounts in the hundreds of millions of dollars.

We ask all members to honour the legislation we're governed by, to stand on principle, to be aware of all the financial implications of passing this legislation and finally, to allow ample time and opportunity for the Federation of Nova Scotia Municipalities and Departmental Staff to consult all Municipalities. Modernizing Municipal Government should not start with divisive legislation.

I want to thank everyone for your time.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'V. Pitts', written in a cursive style.

Warden Vernon Pitts
Municipality of the District of Guysborough



**Municipal Affairs
Office of the Minister**



MAR 28 2017

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MAR 23 2017

Deputy Mayor Laurie Murley
President of Union of
Nova Scotia Municipalities
Suite 1304, 1809 Barrington Street
Halifax, NS B3J 3K8

Dear President Murley:

Re: 12 Month Notice Under the *Municipal Government Act*

Under the provisions of the *Municipal Government Act*, the Minister of Municipal Affairs must provide to the Union of Nova Scotia Municipalities 12 months notice of any provincial legislation, regulation or administrative actions that could have the effect of decreasing revenues or increasing the required expenditures of municipalities.

This letter is intended to provide notice of such changes for fiscal year 2018-19 and beyond. The Department of Municipal Affairs (DMA) canvassed provincial departments to seek information on plans for legislative, regulatory and policy changes in the coming fiscal year. The following is a summary of the results of that survey.

Department of Justice

• **Biological Casework Analysis Agreement**

The Biological Casework Analysis Agreement provides Nova Scotia's municipalities with DNA analysis arising from criminal investigations. DNA analysis is an important and affordable service that helps solve crimes. The expected cost to Nova Scotia in 2017-18 and 2018-19 is \$724,334.26 compared to \$988,849.89 in 2016-17. This temporary reduction in cost is due to lower-than-anticipated expenses resulting from the consolidation of the lab. It is expected that the cost of the service post 2018-19 will return to the 2016-17 level as consolidation is now complete.

The proration of the cost to municipalities will be reassessed annually upon DMA's release of the "Total Uniform Assessment" for the current fiscal year.

- **Legalization of Cannabis**

There is a possibility that the federally directed legalization of cannabis could have implications for municipalities in 2018-19 and beyond in areas such as municipal policy and policing/by-law enforcement. Until there is clarity around the federal, and subsequent provincial legislative and regulatory frameworks, no specific implications can be identified.

DMA is on the inter-departmental working group on cannabis legalization and will be leading municipal engagement as the issue unfolds.

Nova Scotia Environment (NSE)

- **Cap and Trade Program for Greenhouse Gas Emissions**

NSE is leading the development of a cap and trade system for provincial Green House Gas emissions. While it does not anticipate direct municipal impacts, municipalities may be interested in understanding the broader impacts of cap and trade. NSE will work with DMA to provide opportunities to further engage municipalities on this matter.

- **Drinking Water Requirements**

Manganese is currently an aesthetic parameter in drinking water, which means treatment is not mandatory. Health Canada consulted on, and subsequently approved, making manganese a health-related parameter for drinking water. The federal guideline will be published later this year. Once this happens, it will become a provincially regulated limit for drinking water.

Municipalities are already required to sample for manganese; however, when it becomes a health-related parameter they will be required to treat for it, if they do not meet the newly established limit. Once the limit is in place NSE will expect municipalities to complete an evaluation to see if they meet the new limit and if they do not, to develop a plan to meet it. Based on 2015 data it is expected that this change will affect three of the 83 water treatment facilities. There will be a compliance period during which municipalities, in consultation with NSE, will be able to plan for required upgrades.

Department of Municipal Affairs

- **Uniform Assessment**

Uniform Assessment (UA) measures a municipality's tax base, including the total taxable property assessment plus the capitalized value of grants a municipality receives from special property tax arrangements. UA is used to calculate municipal education contributions, municipal contributions to corrections, and the Municipal Equalization Grant.

The UA calculation is currently being reviewed to consider the following:

- Inclusion of the Conservation Property Grant: This grant is provided by the Province to municipalities in lieu of taxes for qualifying "conservation properties" as outlined in the *Conservation Property Tax Exemption Act*. Currently there are 22 municipalities that receive this grant in lieu.
- Removal of Water Utilities: The current UA calculation provides a credit for water utilities under the assumption that municipalities do not tax their water utility; however, in a few cases it has been noted that the municipalities do in fact tax their water utilities.

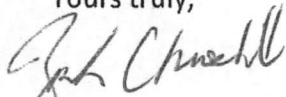
Municipal contributions to education are determined by applying a tax rate, set by the Department of Education, to the UA. If the UA calculation is updated accordingly, total municipal contributions to education would increase.

- **Joint Municipal Accountability and Transparency Committee (JMAT)**

The Joint Municipal Accountability and Transparency Committee was established to ensure mechanisms are in place to support the requirement of transparency and accountability to the public concerning municipal expenses. The committee is in the process of finalizing recommendations, with anticipated changes to the MGA in phases. Phase one will be this spring with anticipated amendments, including posting municipal expenses online, having no material financial impact on municipalities. Other recommendations are subject to further consultation, and may be brought forward and have impacts in the 2018/19 year.

As you know, all government departments continue to review programs that could affect municipalities, particularly those that would decrease revenues or increase the required expenditures of municipalities. As potential impacts are identified, notice will be provided to municipalities. Please let Kelliann Dean, Deputy Minister, Department of Municipal Affairs, know if you have any concerns or questions regarding the information contained in this 12 month notice.

Yours truly,



Zach Churchill
Minister

- c Honourable Diana Whalen, Minister of Justice
Honourable Margaret Miller, Minister of Nova Scotia Environment
Kelliann Dean, Deputy Minister of Municipal Affairs



**Municipal Affairs
Office of the Minister**

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OCT 27 2017

Deputy Mayor Laurie Murley
President, Union of Nova Scotia Municipalities
Suite 1304, 1809 Barrington Street
Halifax, NS B3J 3K8

Dear Deputy Mayor Murley:

Re: Requirement to Notify the Union of Nova Scotia Municipalities - *Municipal Government Act* SNS 1998, c. 18, Section 519

Please accept this letter as the notice to the Union of Nova Scotia Municipalities required by subsection 519(1) of the *Municipal Government Act* SNS 1998, c. 18, of legislation that will have the effect of decreasing the revenue received by municipalities in Nova Scotia or increasing the required expenditures of municipalities in Nova Scotia.

The Government of the Province has passed An Act to Amend Chapter 10 of the Acts of 1994-95, the *Workers' Compensation Act* on October 24, 2017 (Bill No. 7). In accordance with clause 12 of Bill No. 7, the legislation will come into force one year after the date on which it receives Royal Assent.

Bill No. 7 creates a presumption respecting causation of post-traumatic stress disorder for front-line or emergency-response workers (FERWs), including firefighters (both paid and volunteer) and police officers who are diagnosed with this condition. It is anticipated that the total number of claims for post-traumatic stress disorder and the total number of such claims that are accepted for coverage may increase due to the introduction of the presumption and that assessment rates and associated claims costs could also rise. As a result, the expenditures of municipalities in Nova Scotia that participate in the workers' compensation system could increase.

Rate-setting is a decision made by the Workers' Compensation Board (WCB). If the WCB decides to apply rate changes only to employers of FERWs, the additional annual claims costs to municipalities as a group, resulting from the introduction of the PTSD presumption would produce the following estimates (subject to claims experience), modelled on the basis of recent years' experience:

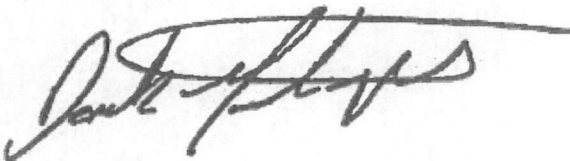
- Police and paid firefighters: \$23,000-\$47,000 (shared across all municipalities that have opted for WCB coverage of these workers)
- Volunteer Firefighters: \$52,400-\$107,200 (shared across all municipalities that have opted for WCB coverage of these deemed workers)

Alternatively, it is possible that the WCB could decide to allocate the costs of the presumption to all assessed employers in the Province due to the nature of the work of FERWs in protecting the public safety and providing for the public good. If the WCB were to follow this approach, it is estimated that it would cost WCB rate payers an additional \$0.01 (one cent) per \$100 of payroll. This means that a rate payer with a \$1 million payroll would see an increase of \$100 per year.

It is also possible that the legislation will result in a potential savings for employers due to the impact of successful early treatment on return to work, sick leave, short term illness and productivity. Identification of actual net costs and benefits will not be possible until the presumption is in effect for some time.

I trust that this is sufficient to provide you with notice of the legislation and ask that you please bring this letter to the attention of the Board of Directors of the Union of Nova Scotia Municipalities at your earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'Derek Mombourquette', with a long horizontal flourish extending to the right.

Derek Mombourquette
Minister

cc. Honourable Labi Kousoulis, Minister of Labour and Advanced Education