

LAW AMENDMENTS COMMITTEE

Red Chamber, Province House

Friday, October 18, 2019



**Bill #193 - Massage Therapist Titles Protection Act**

- 1:00 p.m.            1.    Monica Miller
- 1:15 p.m.            2.    Amy-Lynne Graves, President  
*Massage Therapists' Association of Nova Scotia*

**Bill #201 - Municipal Government Act (amended) and  
Halifax Regional Municipality Charter (amended)**

- 1:30 p.m.            1.    John Traves, Counsel  
*Halifax Regional Municipality*

**Bill #192 - Municipal Elections Act (amended)**

1.    Mayor Mike Savage  
      John Traves, Counsel  
*Halifax Regional Municipality*

**Bill #203 - Crown Attorneys' Labour Relations Act**

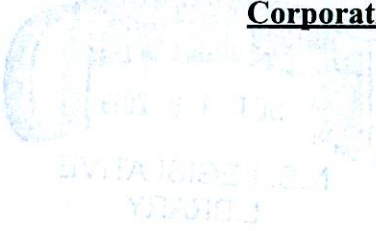
- 1:45 p.m.            1.    Paul Cavalluzzo  
*Nova Scotia Crown Attorneys' Association*
- 2:00 p.m.            2.    Nan McFadgen  
*CUPE Nova Scotia*
- 2:15 p.m.            3.    Jason MacLean, President  
*NSGEU*
- 2:30 p.m.            4.    Martin Herschorn, Q.C.  
      Director of Public Prosecutions  
*Public Prosecution Service*
- 2:45 p.m.            5.    Raymond Larkin, Q.C.
- 3:00 p.m.            6.    Paul Wozney, President  
*Nova Scotia Teachers' Union*

**Bill #189 - House of Assembly Act (amended)**

*No representation*

**Bill #197 - Companies Act (amended), Co-operative Associations Act (amended) and Corporations Registration Act (amended)**

*No representation*



#3  
Traves  
presentation



Good afternoon Mr. Chair and members of the Committee, my name is John Traves, Q.C. and I am the Director of Legal, Municipal Clerk, and External Affairs with the Halifax Regional Municipality – Municipal Solicitor if you prefer.

I appreciate the opportunity to speak in support of Bill 201, an Act to Amend the *Municipal Government Act* and *Halifax Regional Municipality Charter*.

With all due respect, this is not a PACE Program (Property Assessed Clean Energy Program). The On-Site Sewage Program is a program of the Nova Scotia Department of Environment, not the Municipality's. The Property Assessed Clean Energy Program is intended to incent home owners to choose clean energy options when given a choice. Wells and on-site sewage systems are important but do not involve a policy choice of this nature, adding them to the PACE program simply raises expectations with those who are often most vulnerable. Let me be blunt – if you can't arrange financing for an on-site sewage system from a lending institution



you are probably going to struggle to repay the Municipality. While a program with respect to on-site sewage system something that municipalities might entertain after consultation and discussion, it is not something that HRM has requested or considered at this time.

As you are aware, the Charter legally obliges the Minister to consult with HRM in respect of any proposed changes to the Halifax Regional Municipal Charter. I am aware that the government's legislative agenda for this fall sitting was set approximately seven months ago, and in that time there has been no consultation or discussions with respect to this proposal. This despite the concerns raised by HRM with respect to the lack of consultation in 2016 with respect to Bill 62 adding wells to the PACE Program and Bill 177 creating commercial tax districts.

On November 22, 2018, Councillor Wayne Mason, President of NSFM, wrote the Minister attaching a list of the four key statements of municipal concern (a copy of his letter is attached to my submission). The first of those being Municipal Responsibilities as Councillor Mason indicated.

Municipal costs of policing, fire services, solid waste, water and wastewater treatment have been increasing faster than the Consumer Price Index with municipalities having little control over these costs. And while the Province has high demands on its services, these local services are just as important. Without consultation there is no opportunity for the Province and the Municipality to reach any common understanding with respect to what is or is not municipal responsibility on items like PACE, and more importantly, what is the ability in terms of property taxes to pay for existing responsibilities before being asked to consider taking on additional responsibilities, such as funding wells and portions of the provincial On-site Sewage Program.

These sorts of amendments have impacts on municipalities like HRM. Bill 201 will lead to an expectation that HRM will establish a program, "staff it" and based on the Minister's remarks at 2<sup>nd</sup> Reading I assume, fund it out of property taxes.

Well what does Bill 201 not address? The balance of Council's request with respect to commercial tax options, changes to the assessment process to provide for three year averaging is outstanding. Council's request regarding inclusionary zoning is not addressed. Affordable housing remains a problem throughout HRM. Most recently Council's request for changes to allow accessible taxi incentives, the ability to provide business grants for vehicle purchase or conversion. These are all topics which are priorities for Council and have impacts for all residents.

With all due respect, the Property Assessed Clean Energy program is not the appropriate vehicle for on-site sewage systems any more than it is for wells, new roofs, driveways, pest control or other private property matters.

Thank you,





**NOVA SCOTIA FEDERATION  
OF MUNICIPALITIES**

November 22, 2018

**PRESIDENT:**

**Councillor Wayne Mason**  
Halifax Regional Municipality

**VICE-PRESIDENT:**

**Mayor Pam Mood**  
Town of Yarmouth

**IMMEDIATE PAST-PRESIDENT:**

**Deputy Mayor Geoff Stewart**  
County of Colchester

**REGIONAL CAUCUS CHAIR:**

**Councillor George MacDonald**  
Cape Breton Regional Municipality

**RURAL CAUCUS CHAIR:**

**Warden Timothy Habinski**  
County of Annapolis

**TOWN CAUCUS CHAIR:**

**Mayor Jeff Cantwell**  
Town of Wolfville

The Honourable Chuck Porter  
Minister  
Department of Municipal Affairs  
P. O. Box 216  
Halifax, NS B3J 2M6

Dear Minister Porter:

As you are aware, our organization has sent you five resolutions chosen by our members from a longer list of potential topics. These resolutions represent the most important ones to them, but we feel it is important for you to be aware of the ones that were on this list, but not selected for a resolution. They represent areas of municipal concern.

Attached is a list of four Statements of Municipal Concern:

- Municipal Responsibilities
- Policing
- Surplus Schools
- Sustainability and Infrastructure Support Funding

The statements include the identification of the issue, the impact on municipalities, and suggested actions. While there is not a formal request for the Province to undertake any actions, we are hopeful this information is helpful to you as you work in your respective portfolios.

If you would like to have further discussions with us on these matters, please give me a call (902-420-7822) or contact me at [president@nsfm.ca](mailto:president@nsfm.ca)

Sincerely,

Councillor Wayne Mason  
President, NSFM

WM/tv

enclosure

# **NSFM STATEMENTS OF MUNICIPAL CONCERN 2018-19**

These are forwarded for the information of Ministers to increase awareness of the issues facing municipalities.

The Statements of Municipal Concern for 2018-19 are:

- Municipal Responsibilities
- Policing
- Surplus Schools
- Sustainability and Infrastructure Support Funding

For each issue a description is provided, along with an analysis of the impacts on municipalities. While there is also information on possible actions, these are not currently specific requests.

## **1. MUNICIPAL RESPONSIBILITIES**

### **Issue Identification:**

Municipalities have been granted few revenue sources, and property taxes remain the primary source to pay for municipal services. As municipal responsibilities have grown, revenue sources have not. If municipalities are to continue to meet the needs and expectations of their citizens, the property tax burden will become unbearable for many.

### **Background Information:**

At Confederation the provinces were given the responsibility for municipalities and property tax was established as the primary source of taxation. Since that time, the responsibilities of municipalities have grown, some through downloading, others through a willingness to better serve their citizens. The ability of property taxes to remain as the primary source of revenue for municipalities needs to be examined.

Already many Nova Scotians are paying more than 5% of their household incomes on property taxes. Municipalities are being challenged to replace aging infrastructure, build new infrastructure, respond to increasing regulations, and accept new responsibilities for traditional provincial services such as doctor recruitment and internet. Revenue potential is decreasing as our population ages and declines and as global forces change the economy. Demand for commercial property could well decline as retail space gives way to online shopping and as artificial intelligence impacts the need for workers in offices. The impact on property tax is not known, but chances are it will reduce property tax revenues.



Municipalities need to begin work now, with the Province, to develop a long-term path to sustainable communities. This means revisiting the relative roles and responsibilities between the Province and municipalities and revisiting the revenue sources available to municipalities. The problem is not going to solve itself, and it will take some time to solve the problem – it will not be solved in the short run.

#### **Impact on Municipalities:**

The ability of municipalities to address the infrastructure needs in their communities varies. Towns provide more services (typically) than rural municipalities, although there are often pockets within rural municipalities where services are like those of towns (indeed some encompass former towns). Development patterns are changing the responsibilities of rural municipalities, at the same time having distinct and measurable impacts on towns. The lines between urban and rural, or towns and rural municipalities, is blurring. Boundaries established 150 years ago, when services were delivered based on how far one could travel in a day by horse and buggy, may no longer be serving us well.

The need for new infrastructure and for replacement of existing infrastructure is understood, but the size of the infrastructure gap in Nova Scotia is not. The number of applications being submitted under new funding programs from the federal and provincial government suggest the demand could be ten times the available funding, recognizing that applications typically only represent the top priorities. Although the strain of funding infrastructure is shared by all three levels of government, municipal governments across Canada spend, on average, a little under 50 per cent of each infrastructure dollar in the nation. Furthermore, it is municipalities that are most typically the last recourse for funding: if sewer pipes are failing, and people are leaving communities that lack community and recreation opportunities, it is the municipality that is expected to solve the problem—and no one wants to pay more taxes.

An analysis of the municipal financial condition indices provided by the Department of Municipal Affairs indicates the financial tax burden is higher in towns, and that the ability to put funds away in capital reserves is a struggle. While work is being done with the Province on several of the larger issues (roads, housing, physician recruitment) and a review of the Province's operation grant is being undertaken, there needs to be work done on understanding the future of property taxes and the extent to which this form of taxation can reasonably be expected to cover local services.

The Service Exchange Agreement has not been reviewed in the 30-plus years since it was introduced. In the meantime, municipal costs in policing, fire services, solid waste, water and wastewater have been increasing faster than the consumer price index, with municipalities

having little control over those costs. Shared infrastructure is an opportunity to reduce the cost burden, and while there are many examples where municipalities are working together, more of these instances need to be encouraged and/or facilitated. This can be supported through incentives and expertise to facilitate intermunicipal agreements.

While it is understood the Province also levies high income taxes, and has high demands on its services, it should be equally understood that local services are just as important. If local services can't be paid for through property tax, everyone loses, the Province included. It is time now to look at what the infrastructure gap means, what responsibilities municipalities have, and how we can continue to provide the local services communities expect.

**Proposed Action:**

The problem of what should, and what should not, properly be understood as a municipal responsibility is large and complex and will take time to understand. Before a review of municipal responsibilities is undertaken, the ability of property taxes to pay for the status quo into the future needs to be understood. Once the capacity of property taxes is better defined, the gap can be identified. To begin the work, it would be helpful to conduct research on the future trend for property taxes, and what can be expected to the average homeowner's tax bill

## **2. POLICING COSTS**

**Issue Identification:**

The rising cost of policing is one of the greatest concerns faced by Nova Scotian municipalities. In 2005, Nova Scotian municipalities spent \$1.31 billion on policing. By 2015, this total had increased to \$2.16 billion. This equates to a 64.8 per cent increase, which exceeds the 19.5 per cent increase in the overall cost of living during the same period measured by the consumer price index (CPI), as well as the 18 per cent growth in GDP in Nova Scotia over the same years.<sup>1</sup>

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<sup>1</sup> These data are collected from Statistics Canada and the 2005 and 2015 Annual Reports of Municipal Statistics published by Service Nova Scotia and Municipal Relations (2005) and the Nova Scotia Department of Municipal Affairs (2015).



	2005	2015	% Change
Policing Costs - Towns	\$ 24,384,285	\$ 37,460,629	53.63%
Policing Costs - Rurals	\$ 25,505,833	\$ 40,491,931	58.76%
Policing Costs - Regionals	\$ 81,727,890	\$ 138,932,779	69.99%
Policing Costs - Total	\$ 131,618,008	\$ 216,932,779	64.82%
CPI - Canada, All-items (2002 = 100)	107	126.6	18.32%
CPI - Nova Scotia, All-items (2002 = 100)	108.2	129.3	19.50%

### Background Information:

Nova Scotian municipalities provide policing services under three models: municipal police forces; RCMP service through a direct contract; or RCMP through the provincial RCMP contract. NSFM currently shares municipal concerns about policing services with the Nova Scotia Department of Justice (NS DOJ) through two committees. One is a committee that discusses municipal experiences under the RCMP contract. The other is advisory committee to the department on general policing matters. These committees have not been active.

Policing is an essential service necessary in providing safety and security to citizens. The rising cost of policing services, however, constitutes a tremendous pressure on municipal elected officials, who often feel powerless to counteract these cost increases.

One reason for these cost increases is that wages make up the bulk of policing costs, and wages are typically set by arbitrators. When arbitrators decide on wages, they usually duplicate police wage deals from other communities who may or may not be in the province. There appears to be little or no consideration for the property tax burden on home owners in the community. As a result, many municipalities see continually rising policing costs as proof that the arbitration process is broken. Police officers should be paid a fair wage, however the burden on tax payers should also be fair.

There are other factors contributing to the rising police costs. These need to be understood, and new approaches found that will continue to support safe communities but that may be efficient, with potential savings to municipalities.

### Impact on Municipalities

If policing costs continue to increase at such high rates, municipalities will need to cut other services or raise taxes.



## **Proposed Action:**

Not only does the arbitration process need to work, but it also needs to be seen to work. Change must be collaborative, and workers and employers must both work towards their goals in good faith. Arbitration should respect the interests of both employers and employees; help to provide value to citizens receiving police services; and be seen to do both these things. To these ends a few possible solutions might be explored:

- Arbitrators should be required to consider a community's ability to pay as well as agreements negotiated with other local municipal employee unions (such as Public Works, Fire, Support staff), and other workers in the broader public sector and in the community. Furthermore, the specific ability to pay to be considered must be that of the tax burden for residential ratepayers, and not the theoretic ability of a municipality to continuously increase residential tax rates.
- Municipalities and the Province could consider a centralized arbitration service that is openly made available to employers but voluntary in terms of participation. When individual units negotiate separately with individual police unions, leapfrogging occurs - one employer makes a concession or increase that is then replicated by others. At arbitration, these become the comparators and the spiral continues.
- Police services could be carefully examined to identify opportunities for alternative resources, including civilians, technology and outsourcing. The focus should be on program outcomes and budgets, and not on arbitrary limits on the size of the police force. There should be no ideological or other bias towards or away from civilian delivery of services. We need the flexibility to use civilians for some duties that don't require a uniformed and armed officer.
- Advocacy work could be done at the provincial and federal levels for sharing those costs that are related directly to responsibilities downloaded by them, such as cannabis, mental health, policing of international waters and national security.

Asking arbitrators to consider a community's capacity to pay is a specific and attainable request that will help to mitigate the sharp increases in policing costs experienced by Nova Scotian Municipalities. This solution is also likely to go a long way towards restoring municipal faith in the arbitration process

Adding an ability-to-pay consideration to arbitration is not likely to be a long-term solution for policing costs. It may be effective in meeting short-term fiscal targets, but longer-term action will require co-operative approaches that can drive institutional and system-level change. To this end NSFPM needs to continue to work collaboratively with the NS DOJ and the Nova Scotia Association of Police Governance boards to identify opportunities for service delivery opportunities and cost containment on the Joint Police Services and Community Safety

Advisory Committee. The committees need to become more active and identify further solutions. As this work progresses, additional resolutions might be appropriate.

### **3. SURPLUS SCHOOLS**

#### **Issue Identification:**

The cost of demolishing schools declared surplus has become a significant burden for several municipalities. In a few cases, the burden is simply unmanageable.

#### **Background Information:**

Prior to 1982, municipalities were responsible for school board operations and were therefore responsible for the construction and maintenance of schools. When the responsibility for school boards was transferred to the Province, legislation granted school boards control of the school assets. Schools built after 1982 are provincial assets.

There exist some 400 schools throughout Nova Scotia, and about half are owned by municipalities. The Province's position has been that when these schools are declared surplus, they revert to the municipality. In the former school boards in Halifax, South Shore and Tri-County, more than half of the schools are municipal. In Annapolis Valley and Chignecto-Central, less than a third are municipally owned. The implications of surplus schools are not equal throughout Nova Scotia.

Section 93 (1) of the *Education Act* states that where land and buildings (previously owned by a municipality and that have been vested in a school board) are declared surplus, the municipality shall have the option of having the surplus land and buildings re-conveyed to it. Although several municipalities have raised this section of the Act, the Province continues to insist municipalities do not have a choice and must assume responsibility for the surplus schools.

In several cases, municipalities have willingly agreed to resume responsibility and have been able to transform the schools for other purposes. In other cases, the location of the school, the state of disrepair, and the financial circumstances of the municipality hinders the opportunity to make use of these facilities and the only course of action is to demolish the school. Vacant schools are a liability to municipalities and there are concerns about public safety should they remain vacant.



## **Impact on Municipalities**

For those who face a school closure, the cost implications can be significant. Many of these schools have not been maintained to a level that renders them usable for other purposes, and may have mold, mercury switches, or other hazardous features. Building codes were not always followed, and schools being handed over often lack any plans or drawings, or any information about services or utilities. Some locations have environmental issues due to buses being parked, serviced, and maintained on the lands, and some contain asbestos products and lead paint.

Examples of recent estimates to demolish a surplus school are as follows:

- CBRM: 7 surplus schools since 2015, with costs to demolish ranging from \$40,000 – \$250,000 and a total cost for the 7 schools of \$1.3 million.
- Town of Pictou: estimated cost \$500,000 for one school.
- Annapolis County - \$700,000 - \$1 million estimate for one school
- District of Lunenburg – current cost to date for three schools is \$497,775.88 and counting, with \$2.5 to \$3.0 million in additional expenses expected for two large schools yet to be demolished.
- Mulgrave \$350,000 – \$500,000 for one school.
- Municipality of Pictou – over \$500,000 for one school.

In some cases, the value of the land is such that it can be sold to other interests, and revenues may offset the cost of demolition. In other cases, the municipality can find funding and/or partners who are willing to share in the investment required to repurpose the property. Since these lands and facilities were built with taxpayers' monies, the municipality should be able to decide the best future for these lands.

In those cases where the municipality refuses the offer for the surplus school, the facility should be demolished by the Province and the land returned to the municipality. The decision to not maintain or close the school was not the decision of the municipality.

It should also be noted property taxpayers contribute over \$250 million annually to the Province for education. This amount is collected by municipal governments and transferred to the Province. It is estimated the mandatory education payments represent close to 20% of the province's education costs. It is not fair to ask property owners to pay more.

## **Proposed Action:**

The Province needs to abide by the Education Act and offer municipalities the right to refuse to



assume ownership of a surplus school, with enough time provided to allow municipalities to conduct a thorough analysis of the options.

For those municipalities that are not interested in taking ownership of the surplus school, the province should be responsible for demolishing it and for ensuring the site is environmentally safe.

Given municipalities did not have control over the use of these sites, costs associated with any environmental damage should be assumed by the Province.

As well, given the municipalities did not have control over the maintenance of the school, the province should assist the municipality with costs required to make the school usable for other purposes.

#### **4. SUSTAINABILITY & INFRASTRUCTURE FUNDING SUPPORT**

##### **Issue Identification**

Numerous funding resources exist for municipalities to make their operations more efficient, strengthen their infrastructure planning initiatives and increase their resiliency to our changing climate. However, despite the availability of programs, a significant number of Nova Scotia's municipalities lack the capacity and/or time to access them.

As a provincial association, NSFAM is well positioned to support municipalities in accessing available funding to foster the adoption of innovative and strategic approaches to managing their operations and infrastructure. NSFAM could play a key role in identifying appropriate projects and sources of funding, and opportunities to partner with other municipalities on initiatives that are mutually beneficial but lacks the resources to do so.

##### **Background Information**

Over the next 10 years, Nova Scotia will receive \$828 million in federal infrastructure funding through the *Investing in Canada Plan*. This program will offer funding for green infrastructure, public transit infrastructure and community, culture and recreation infrastructure. To access the funding, municipalities will have the added requirement of applying a "climate lens" to applications for major infrastructure projects, where they will need to undertake an assessment of how projects will reduce carbon pollution and better withstand the impacts of climate change.

In addition to the *Investing in Canada Plan* opportunities, the Federation of Canadian Municipalities (FCM) has funding to support sustainability, infrastructure and climate change initiatives. Its main funding program is the *Green Municipal Fund*, which supports projects that improve air, water, soil and reduce greenhouse gas emissions.

Although these programs are available to communities across the country, Nova Scotia's municipalities are often under represented as funding recipients. To position our municipalities to take advantage of these opportunities, NSFAM could support municipalities (which may otherwise not have the in-house capacity) in securing funding for sustainable infrastructure planning, green innovation and climate change initiatives. NSFAM could also help identify and facilitate strategic investments and inter-municipal approaches to ensure Nova Scotia capitalizes on the funding in the best possible manner.

NSFAM could create an in-house position. NSFAM would focus on helping municipalities identify and access funding to support initiatives designed to mitigate current and future climate risks as well as those that lead to the adoption of new and sustainable approaches to infrastructure planning.

Through the development of resources, training opportunities and knowledge sharing events, NSFAM could help streamline the application process for municipalities and position them to be successful applicants. Recognizing that local leaders know what is best for their communities, NSFAM could work with municipalities to identify innovative solutions to make their communities more sustainable that also fit within the program requirements. To make the most of available resources, NSFAM would also look for opportunities for municipalities to partner in circumstances where they would benefit from regional or collaborative applications. This would not only ensure that funding programs are as impactful as possible, but also make limited resources go farther.

### **Impact on Municipalities**

NSFAM could play a coordinating role in helping municipalities secure funding that they otherwise would not have the capacity to access. This support would help municipalities make the most of programs that mitigate current and future climate risks and enhance infrastructure planning and service delivery. Without this resource, municipalities might miss important opportunities to advance their communities.

### **Proposed Action**

Funding needs to be found to cover the cost of creating a Sustainability & Infrastructure

Funding Support position within NSFAM (funding for the position would cover salary, benefits, resource development, coordination of events, travel, etc.). Because this position would provide value to both municipalities and the Province, in terms of meeting shared goals relating to environmental and infrastructure sustainability, NSFAM would seek financial support from the province, which may come from the administration fees from the federal programs, or some other alternative might be found. Funding should be ongoing for 3-5 years.

The main services that could be provided through this position include:

- Coordinating knowledge sharing and educational opportunities about existing funding programs and resources
- Assisting municipalities in preparing to apply for eligible funding programs
- Supporting municipalities in seeking innovative project ideas and applications to facilitate strategic infrastructure and sustainability planning
- Facilitating networking opportunities to share best practices and successes among municipalities
- Facilitating collaboration among municipalities where it creates economies of scale and shared benefits to develop regional/collaborative applications
- Liaising with Infrastructure Canada, the Province of Nova Scotia, FCM and other organizations to remain current on existing resources and opportunities.