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**HOUSE OF ASSEMBLY
MANAGEMENT COMMISSION**

Wednesday, September 27, 2023

Committee Room

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HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

Hon. Keith Bain (Chair)

Nolan Young

Hon. Kim Masland

Hon. Allan MacMaster

Danielle Barkhouse

Hon. Derek Mombourquette

Hon. Keith Irving

Susan Leblanc

James Charlton, Chief Clerk of the House of Assembly
(Non-Voting Member)

[Danielle Barkhouse was replaced by John A. MacDonald.]

[Hon. Keith Irving was replaced by Hon. Iain Rankin.]

In Attendance:

Gordon Hebb
Chief Legislative Counsel

Matthew Timmons
Director of Operations and Administration
Office of the Speaker

David Hastings
Assistant Clerk of the House of Assembly



House of Assembly
Nova Scotia

HALIFAX, WEDNESDAY, SEPTEMBER 27, 2023

HOUSE OF ASSEMBLY MANAGEMENT COMMISSION

12:04 P.M.

CHAIR

Hon. Keith Bain

VICE CHAIR

Nolan Young

THE CHAIR: Order, please. We'll call the meeting of the House of Assembly Management Commission to order. Before we begin, we'll start with introductions. We'll go down to the end of the table first and go around this way.

[The committee members introduced themselves.]

THE CHAIR: I also want to acknowledge Gordon Hebb, Chief Legislative Counsel; Matthew Timmons, Director of Operations; and of course, our Chief Clerk, James Charlton.

The minutes of the previous meeting were circulated in advance. Are there any corrections to the minutes? Hearing none, we'll ask for a motion to adopt the minutes of the May 24, 2023 meeting.

NOLAN YOUNG: So moved.

THE CHAIR: A seconder?

HON. DEREK MOMBOURQUETTE: I'll second.

THE CHAIR: It's been moved and seconded.

All those in favour? Contrary minded? Thank you.

The motion is carried.

I also want to note for the record that the Deputy Premier and Minister of Finance and Treasury Board, the honourable Allan MacMaster, has joined the meeting as well.

A copy of the proposed amendments to the House of Assembly Management Commission was circulated in advance of the meeting as well. I'm going to call on the Chief Clerk to speak to this item. Mr. Charlton.

JAMES CHARLTON: This may look like a somewhat intimidating package of amending regulations, but we also circulated a strike-out and an underlined version of the House of Assembly Management Commission Regulations so you can see what these amendments look like in context. I'm just going to go through them very quickly for the Management Commission's information.

These include quite a lot of housekeeping changes - some global housekeeping changes. We're changing instances of "Her Majesty" to "the Crown" to be gender neutral and reflect that we now have a King instead of a Queen. We've added some cross references to Section 43A in various provisions that already refer to Section 43 but should refer to both. We've changed the references in the Management Commission Regulations to "normal airline ground transportation" to instead read "reasonable ground transportation." That's a better reflection of our practice and provides for some flexibility. Also, what we've done here is we've converted various directives of the Management Commission into regulatory provisions. These directives were already mandatory, but the only place to find them was in the annotated regulations. Now they'll actually be in all versions of the regulations. I think it's just a little bit more transparent that way.

The other non-housekeeping changes - or not purely housekeeping changes - were removing references to pre-commitments of expenditures and other provisions that are inconsistent with the fact that MLAs receive a monthly budget with the ability to claim any unspent balance in future months, rather than an annual budget. We amend Sections 10 to 12 to align with the current practices regarding the MLA expenditure reports and statements, and remove an obligation for the members to keep a copy of those statements in their office. That's because that is already posted online by the Speaker's Administration Office.

We amend Section 24A to provide that rather than telephone, answering and fax services being ineligible for reimbursement during an election period, those services may be reimbursed but may not be used for partisan purposes. That better reflects our existing

practice, and it would be incredibly inconvenient for everyone to have to cut off their cellphones during an election period.

We are amending Section 27 to harmonize the rules regarding reimbursement for appliances for outside MLAs' apartments with the changes we made for the appliances for constituency offices. That's in terms of putting up the limits for appliances and getting rid of the two classes - small appliances and regular appliances. Now it's just a \$400 reimbursement limit for appliances.

We're amending Sections 43 and 43A to express the amount MLAs may spend as a single monthly figure, rather than a monthly figure and a separate annual supplemental amount. We just thought that was a bit awkward. MLAs all get the same monthly figure, and then everyone gets a supplementary amount, which varies based on the size of their electoral district. The truth is, the supplementary amount was originally intended for franking and travel, but those amounts have always been a single pool of money, or at least have been for a long time. What we now do is Section 43 expresses what I would say is kind of the basic monthly amount that all MLAs receive, and then 43A creates exceptions. It basically says to read that amount as a higher amount for MLAs with certain larger constituencies.

We've amended Section 44 to clarify that per diems are payable for days spent travelling to Halifax. That's always been the case, but we didn't think it was very clear in the regulations.

We've amended Sections 45 to 47 and 50 to provide for reimbursement of expenses for - and this is already a global change - "reasonable ground transportation" rather than "normal airline ground transportation"; amended Sections 45 and 46 to eliminate the ability to stay a third night at a destination for meetings if it's cheaper than staying for two nights. That never really made sense. We don't know of any situation where it's going to be cheaper to stay at a place for three nights than two. Since that provision had never been invoked, and it would be very difficult for it to be policed by the Speaker's Administration Office, we didn't want to have an illusory provision in there.

We are permitting travel under Section 46 on critic business in addition to constituency business. Right now, Sections 45 and 46 - Section 45 is trips to Ottawa, Section 46 allows you, in lieu of a trip to Ottawa, to take a trip somewhere else in North America. The Ottawa one was always couched as either constituency or critic business, but Section 46 only referred to constituency business. We found that incongruent. There are lots of legitimate reasons why a critic would need to potentially go to a place other than Ottawa for meetings. I think that was actually something of an oversight in the regulations, so we're harmonizing it. In both cases you can travel on critic business as well - that's outside of the province.

We are now, in Section 47, explicitly permitting the reimbursement of registration fees, and when travelling outside Canada, other reasonable fees such as the cost of travel visas and vaccinations for Speaker-approved travel to meetings of parliamentary and legislative groups. That's something we had covered as a matter of practice, but we didn't think it was properly provided for in the regulations. We wanted to make that explicit. Also, by doing it for this approved parliamentary travel, it makes it clear that for other meetings other than the approved legislative and parliamentary groups - that's things like the Commonwealth Parliamentary Association, the Assemblée parlementaire de la Francophonie, also some other groups that we engage with on a more ad hoc basis.

For other travel, such as trips to Ottawa, registration fees are not covered. The travel is intended for meetings, not for conferences and things like that.

Finally, we are clarifying that members may expense up to four critic trips annually within Nova Scotia under Section 48 for each department or agency of the government for which the member is a critic. Again, that's an existing practice, but we didn't think it was clearly explained in the regulations and we wanted to be explicit about it. If an Opposition member holds two critic portfolios - say critic for the Department of Finance and Treasury Board and critic for the Department of Health and Wellness - they would be able to expense four trips within the province for the Department of Finance and Treasury Board and up to four trips for the Department of Health and Wellness.

Those are the amendments in a nutshell. I'm certainly happy to entertain any questions if there are any. Otherwise, I'll turn it back over to our Chair.

THE CHAIR: Are there any questions or further discussion on these amendments that are brought forward? Hearing none, we'll ask for a motion that the proposed amendments to the House of Assembly Management Commission Regulations be approved. MLA MacDonald. Do we have a seconder? MLA Leblanc. Regularly moved and seconded.

All those in favour? Contrary minded? Thank you.

The motion is carried.

Next on the agenda is the Political Activity and Impartiality Policy. This was also circulated prior to the meeting. Once again, we'll recognize the Chief Clerk to speak to this item as well.

JAMES CHARLTON: This policy was drafted following a jurisdictional scan that looked at the policies of the other provincial and territorial legislatures and the Houses of the Parliament of Canada, and also in consultation with the managers of the various Assembly offices. Just to be clear, these aren't the caucus offices; they're not covered by this. These are the divisions of the House of Assembly, such as the Clerk's Office,

Hansard, Legislative Television, Legislative Counsel Office, Speaker's Administration Office.

Impartiality has always been the central tenet for the officers and employees of the House. It's really the most important animating value for us. This policy arose out of a desire to set clear standards to guide employees, and establish the degree of impartiality by which members may expect the officers and employees of the House to abide. The standard for employees and officers of the House must be higher than that required of civil servants employed by the Public Service Commission because our staff works in such close proximity to members, government and opposition alike. For greater certainty, as I've said, it doesn't apply to the caucus staff, and it also doesn't apply to the independent offices of the House, such as the Auditor General and the Conflict of Interest Commissioner. Aspects of the policy include:

[12:15 p.m.]

A comprehensive definition of "political activity" that encompasses activity at the federal, provincial, and municipal levels;

A prohibition on what the policy refers to as "restricted employees," those working in the closest proximity to members and caucus staff and includes all of our central management team, in engaging in any political activity;

A prohibition on employees other than "restricted employees" engaging in political activity except during an approved leave of absence granted to the employee for the purpose of being a candidate in a federal, provincial, or municipal election. That's actually something new for us, but it aligns not only with what is the practice for civil servants, but also what a great many other legislatures do. This is for the employees who are a little bit further distanced from the MLAs to allow them to still exercise their political rights and be candidates for election. Again, they would have to take a leave and would only come back to the Legislature after the election is done. If they were successfully elected, then they would leave our employment to serve as an elected official at whatever level;

A prohibition of Commissionaires and cleaning staff engaging in political activity while working in the precinct. It's a much more limited - when I say work in the precinct, basically while they're in Province House or here in the precinct. It's a much more limited restriction on them because they are at the most distance from the MLAs in terms of their day-to-day duties;

An exception to permit employees to communicate respectfully with a candidate or legislator about a position that's being taken on a matter of general policy or an issue affecting the employee. We still want members of staff to be able to communicate with their individual MLAs or MPs or municipal councillors, as the case may be.

I think that covers the policy. Again, we looked at what's in place in the other jurisdictions. We tried to take the very best practices, and we've put together something that we feel is quite comprehensive and is both a tool for employees to know about what is appropriate and not appropriate conduct but also sets the standard for what MLAs can expect from us.

THE CHAIR: Any questions or discussion? MLA MacDonald.

JOHN A. MACDONALD: Just a question. The policy applies to the substitution of Sections 36 to 41 of the Civil Service Act. We don't have to modify the Civil Service Act, correct? I'm just asking for clarity.

JAMES CHARLTON: No, we don't. The House of Assembly Management Commission Act basically provides that we follow the policies, some of which are enshrined in legislation, of the Public Service Commission unless the Management Commission substitutes another policy. By virtue of that provision, this will trump those provisions of the legislation.

THE CHAIR: MLA MacMaster.

HON. ALLAN MACMASTER: My question is just for clarification. There are restricted employees. There are very few who are restricted. When they're being hired, I presume it's clearly explained to them the importance of not being involved in political activity or something that would be considered political activity, so they have the opportunity to choose at that point if they're okay with that, but we're not going beyond those named people here to restrict people who work in and around Province House to express their views as a citizen away from work. Am I correct?

JAMES CHARLTON: For everyone - there's a definition of political activity, and that does apply to all employees. I think one of the critical ones there is there's a provision here that talks about "expressing, by any mode of communication, to one or more members of the general public, to a candidate or legislator or to anyone working in support of a candidate, legislator or political party, a view that can reasonably be construed as praising or criticizing a political party, candidate or legislator, or a position publicly taken by any of them, if the praise or criticism would lead a reasonable person to question the non-partisanship and impartiality of the individual expressing the view."

That will apply to everyone. Really, the difference between restricted and the not-restricted employees is the ability to actually take a leave. I'm a restricted employee. I'm named as a restricted employee in the policy. I can never take a leave of absence to be a candidate. That's just fundamentally incompatible with my position.

It does mean that the employees of the House of Assembly - there are some restrictions in our speech. We have to be careful about how we communicate those things.

That's always been an important value for us around here. Our staff are already very mindful of that. It's just we're taking it really from being a value - something that's told to people when they are hired - and actually putting it in a formal policy. Sometimes it's a very fine line that we have to walk in terms of exercising our own political rights, but also making sure that we are impartial, and just as important as that, that we are seen to be impartial for all the members of the House and for the caucus staff whom we interact with.

That said, I just want to say that I will certainly be available for staff to discuss these things if they have things that they want to express, and want to discuss the application of the policy ahead of time. I can be there to provide advice on it. Our staff generally show excellent judgement in these matters already. I do see this policy as being pretty close to a codification of what we already do.

ALLAN MACMASTER: Just two quick questions. It is a little different from, say, somebody working in the civil service if you're working at Province House. It's a little more restrictive. You're nodding to confirm, so that answers that question. The other question is: Is this new, or has this existed before but is now, perhaps through this process, becoming more formalized? Can you comment on that?

JAMES CHARLTON: Yes, this existed in a much more informal way. It's something we talk about here at the House. It's something we talk about when we're hired. In some cases, it would be written into employment letters when someone is first being hired - to talk about the importance of impartiality. What we've tried to do here is take it and put it into a very formal policy that will be passed by the Management Commission so it's clear that this does have effect - that it supersedes the provisions applicable to regular civil servants. Most civil servants work at a far greater distance from MLAs than we do, so the need for restrictions is not as great - although certainly people like deputy ministers are very politically restricted in what they can do.

As I said, we didn't have a formal policy in place. Some legislatures do, some legislatures don't. We thought it was better to actually take this and create a very formal policy in a written document so we have something we can point to, and employees have something they can point to. It's not some sort of a general notion of impartiality but some actual rules that can be followed for employees, and allowing them some more prior notice of what behaviour is acceptable and not acceptable.

ALLAN MACMASTER: Just a final comment, Mr. Chair. My questions are out of the concern for people. They're citizens. They should still have the right to express themselves. I'm thinking this is a little different because they're working right at Province House. My questions are just in that spirit of ensuring that people are not going to be prevented, but in this case, they're accepting it by the terms of their employment, and they still have the ability to communicate with their elected representatives if they're concerned about something. I think that's obviously critical. That's why I was asking those questions.

JAMES CHARLTON: I just do want to emphasize, we have created a carve-out. What we want is for when employees need to communicate on these things - appropriate communication with their own MLAs. Just to give you an example, showing up in a protest outside Province House is not appropriate activity. How can MLAs feel that we are non-partisan if you see us protesting the actions of the government or actions being undertaken by the House of Assembly? That said, having respectful conversations with either a candidate coming door-to-door or with your own individual - whether it's your MLA, your MP, your councillor, if you elect a member to the CSAP, with that member of the school board, in those cases a respectful conversation - tone is important there.

Yes, a one-on-one conversation about things to indicate: I don't support this measure, I do support this measure, I have a concern about this, or even just: I'm encountering this issue as your constituent, can you help me? We don't want to cut that off. We've tried to - again, it's very difficult because as employees of this House, we love democracy, we serve democracy, but unfortunately, to work here it also means to some extent to restrain your political activity. Maybe it's difficult for all of us, because we're always very interested in politics and government working here, but it's the price that we willingly pay to serve the House of Assembly.

THE CHAIR: Okay, MLA MacMaster? Any further discussion or questions? Hearing none, I'll ask for a motion to approve the Political Activity and Impartiality Policy as presented by the Clerk. Do we have a mover? MLA MacDonald. Do we have a seconder? MLA Young. The motion has been put.

All those in favour? Contrary minded? Thank you.

The motion is carried.

The next item is the appointment of the Auditor for 2023-24, and once again, we'll put the Chief Clerk in the hot seat.

JAMES CHARLTON: This is a relatively quick one. On September 21st, the Audit Committee by resolution recommended to the House of Assembly Management Commission that the Auditor General be appointed as auditor of the accounts of the House of Assembly for the 2023-2024 fiscal year. That requires a motion by the Management Commission to do so.

THE CHAIR: We'll ask for a motion that the Auditor General be appointed as auditor of the accounts of the House of Assembly for the fiscal year ending March 31, 2024, pursuant to Section 22 of the House of Assembly Management Commission Act. Do we have a mover? MLA MacDonald. Seconded by MLA Mombourquette.

All those in favour? Contrary minded? Thank you.

The motion is carried.

Number 5 is the annual Consumer Price Index adjustment, and I'll once again recognize the Chief Clerk to speak to this item.

JAMES CHARLTON: This item was deferred from the May 24, 2023, meeting of the Commission. Just a reminder, pursuant to subsection 52(1) of the House of Assembly Management Commission Regulations, the fixed amounts set out in the Regulations, except the amount referred to in clause 50(a) for mileage claims and the caucus office entitlements set out in subsection 33(2), are increased on April 1st of each year by the increase in the Consumer Price Index for Nova Scotia or the core CPI for Canada, whichever is lower, for the previous year, rounded to the nearest dollar. This adjustment is subject to the approval of the Management Commission. It will not take effect unless the Management Commission approves it.

The CPI for Nova Scotia for the 2022-2023 fiscal year was 4.5 per cent, while the CPI for Canada for the same period was 4.4 per cent. The Management Commission must determine whether to approve the 4.4 per cent adjustment.

THE CHAIR: I want to remind the Commission that a projection of the impact that the adjustment will have on the budget, and a copy of the proposed amendments to the House of Assembly Management Commission Regulations to reflect the adjustment, were circulated in advance of the May 24th meeting, and that the Director of Operations and Administration has already spoken to the adjustment at that meeting. Are there any further questions or discussion on the Management Commission Regulations? MLA Masland.

HON. KIM MASLAND: I would just like to say that the PC members of the Commission will not be supporting a CPI increase at this time.

THE CHAIR: MLA Leblanc.

SUSAN LEBLANC: I will not be supporting an increase either, but I would like to be on the record and say a couple of things about this. I have recently been in salary negotiations with part-time staff in my office, and I've been looking at the recent announcement of the new living wage in metro, which is \$26 an hour, and have tried to be able to pay that to part-time staff. When I do my budget now, and I crunch those numbers, it is essentially impossible to pay a living wage with the other expenditures that I have in an urban office. I say this because without increasing our budgets according to the CPI or any kind of increase, if we continue down the road of not increasing these budgets, then ultimately the people who are going to suffer are part-time staff and the community associations that benefit from different expenditures in the community, through advertising and that kind of thing - but particularly the part-time staff.

[12:30 p.m.]

I will say at this time especially, government has tended to begin off-loading, unloading responsibilities of government offices to constituency offices. So as a very sort of banal but important example, the Seniors Care Grant. When the Seniors Care Grant was announced a couple of weeks ago without really any warning to constituency offices - it was announced that if you need help with applying for the Seniors Care Grant, then go to your MLA office. Since then, I've had several people a day come in to our office, and we need people - I need someone there. I would love to have two people there five days a week. Unfortunately, I can't do that. As it happens now, I have someone there five days a week and someone there two days a week, but it would be very helpful to have people there to help folks fill out their Seniors Care Grants. That's just one. There's also the Heating Assistance Rebate Program. There are all kinds of things the government is seeming to download to constituency offices.

I would also point out that in this situation, different constituencies will have different pressures on their offices, depending on population, depending on the needs of the population, depending on the size of the constituency, et cetera.

I'm saying all of this because I do think that - and again, I'm not going to support an increase this year, but I do think it is important for us to be revisiting this again sooner than later because it's going to become unsustainable. So I will not be supporting an increase this year, but I hope that we can look at this again and look at the real implications of what it means to not increase budgets when we're living in a time of inflationary pressures.

THE CHAIR: MLA Mombourquette.

HON. DEREK MOMBOURQUETTE: Just for us to be on the record too, the Liberal caucus will not be supporting the increased CPI.

ALLAN MACMASTER: I think MLA Leblanc has raised an important issue around government programs and the use of MLA offices. It would certainly place an extra burden on MLA offices when departments reference an MLA office as a place where they can get government service. That's something I've noticed as well. I know on at least one occasion I discouraged it to stop it from happening because there is a lot of work to be done in an MLA's office and sometimes offices can handle that kind of work. MLAs certainly have the freedom to encourage it, but I think that should be something the MLA decides and not necessarily something that a department puts out there that suggests going to an MLA office. That should be up to the MLA to encourage that. For what it's worth, Mr. Chair, it's something that I will certainly bring back, because I think she raises an excellent point.

THE CHAIR: I'm going to ask for a motion that the increase on April 1, 2023 of the fixed amount set out in the House of Assembly Management Commission Regulations of

4.4 per cent rounded to the nearest dollar as provided under Subsection 52(1) of the regulations be rejected. Do we have a mover for that motion? MLA Masland. MLA MacDonald seconded. Just to be clear, this motion is to reject the increase, okay?

All those in favour? Contrary minded? Thank you.

The motion is carried.

Carried to be defeated.

Next we get into the financial reports for the first quarter of 2023-24. Those financials were circulated in advance of the meeting. I'll recognize Mr. Timmons, the Director of Operations and Administration, to speak to this item.

MATTHEW TIMMONS: These results are based on our first quarter, so June 30th of this year. Nothing major to report, as is typical for first quarter. We tend to forecast on budget for the first quarter at least, and we are on target at 21 per cent - so a typical year at this point. The next quarter ends in a few days, so we'll have the second quarter report to prepare to show at the next meeting.

THE CHAIR: Any discussion or questions?

JOHN A. MACDONALD: What's APF? I don't know what that term is. I apologize.

MATTHEW TIMMONS: APF is our Commonwealth francophone conference. I don't know the exact terminology, but it's our francophone conference.

JAMES CHARLTON: Actually, Assistant Clerk David Hastings probably is in a better place to speak to it, but if I recall correctly, it's the Assemblée parlementaire de la Francophonie. It is like a francophone equivalent to the Commonwealth Parliamentary Association. French-speaking members participate in that. It meets occasionally throughout the year, has events. Members go to conferences hosted by the APF from other francophone jurisdictions, including other jurisdictions in Canada. Most of the Canadian provinces, I think, are involved with this.

THE CHAIR: Très bon. Any further questions or discussion? Hearing none. This is just received for information purposes.

DEREK MOMBOURQUETTE: I don't want to interrupt the meeting. Are we through the agenda?

THE CHAIR: Yes.

DEREK MOMBOURQUETTE: I just want to say something on a personal note because you read the paper and you don't know what changes will come. Mr. Chair, I wish you were still going to be in your position, but I don't know what's going to happen. I do think it's important - you chaired this for the last few years. We Cape Bretoners always love seeing folks in positions of influence and power. You did a great job trying to navigate some awkward moments with this committee. I just want to wish you all the best as a fellow Cape Bretoner and as an MLA who was involved with you since I was a young guy. I'm still kind of young. I just want to wish you all the best.

You did an excellent job as Chair. You do an excellent job as Speaker. Now that we're sitting in this capacity in the Management Commission, not sure if you'll be chairing the next one or not. I wish you were, but if you're not, from me and the rest of our caucus, and especially from Cape Bretoners: well done.

THE CHAIR: Thank you very much. You said you're still young. I'm not anymore, and that's one of the reasons I'm moving along, but anyway. (Laughter) I appreciate that. I've enjoyed - MLA Leblanc.

SUSAN LEBLANC: I don't want to interrupt you but . . .

THE CHAIR: I've enjoyed my time as Speaker and as Chair of the House of Assembly Management Commission. I'll miss it, sure, but it's time to move on. I did make a statement some time ago that as I approached my 71st birthday, I would be stepping aside. The House goes back in on October 12th. That's only 12 days away from my 75th - 71st birthday. (Laughter) I'm aging myself already. I think it's only fair.

I could stay on. This is probably - I don't mind sharing it - I could get my MLA's salary, I could get my Speaker's salary, I could get my pension, but those of you who know me, that's not the fair way to do it. That's it.

SUSAN LEBLANC: I just wanted to say, I really like the new accessibility software. It's really pleasing, and it seems to work well, so thanks to whoever chose that program. It's great.

THE CHAIR: If there are no further items to come before the meeting, we stand adjourned.

[The commission adjourned at 12:39 p.m.]