



Third Session - Thirty-Seventh Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Industrial Relations

Chairperson
Mr. Daryl Reid
Constituency of Transcona



Vol. LII No. 2 - 6:30 p.m., Tuesday, July 2, 2002

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Seventh Legislature

Member	Constituency	Political Affiliation
AGLUGUB, Cris	The Maples	N.D.P.
ALLAN, Nancy	St. Vital	N.D.P.
ASHTON, Steve, Hon.	Thompson	N.D.P.
ASPER, Linda	Riel	N.D.P.
BARRETT, Becky, Hon.	Inkster	N.D.P.
CALDWELL, Drew, Hon.	Brandon East	N.D.P.
CERILLI, Marianne	Radisson	N.D.P.
CHOMIAK, Dave, Hon.	Kildonan	N.D.P.
CUMMINGS, Glen	Ste. Rose	P.C.
DACQUAY, Louise	Seine River	P.C.
DERKACH, Leonard	Russell	P.C.
DEWAR, Gregory	Selkirk	N.D.P.
DOER, Gary, Hon.	Concordia	N.D.P.
DRIEDGER, Myrna	Charleswood	P.C.
DYCK, Peter	Pembina	P.C.
ENNS, Harry	Lakeside	P.C.
FAURSCHOU, David	Portage la Prairie	P.C.
FRIESEN, Jean, Hon.	Wolseley	N.D.P.
GERRARD, Jon, Hon.	River Heights	Lib.
GILLESHAMMER, Harold	Minnedosa	P.C.
HAWRANIK, Gerald	Lac du Bonnet	P.C.
HELWER, Edward	Gimli	P.C.
HICKES, George	Point Douglas	N.D.P.
JENNISSEN, Gerard	Flin Flon	N.D.P.
KORZENIOWSKI, Bonnie	St. James	N.D.P.
LATHLIN, Oscar, Hon.	The Pas	N.D.P.
LAURENDEAU, Marcel	St. Norbert	P.C.
LEMIEUX, Ron, Hon.	La Verendrye	N.D.P.
LOEWEN, John	Fort Whyte	P.C.
MACKINTOSH, Gord, Hon.	St. Johns	N.D.P.
MAGUIRE, Larry	Arthur-Virden	P.C.
MALOWAY, Jim	Elmwood	N.D.P.
MARTINDALE, Doug	Burrows	N.D.P.
McGIFFORD, Diane, Hon.	Lord Roberts	N.D.P.
MIHYCHUK, MaryAnn, Hon.	Minto	N.D.P.
MITCHELSON, Bonnie	River East	P.C.
MURRAY, Stuart	Kirkfield Park	P.C.
NEVAKSHONOFF, Tom	Interlake	N.D.P.
PENNER, Jack	Emerson	P.C.
PENNER, Jim	Steinbach	P.C.
PITURA, Frank	Morris	P.C.
REID, Daryl	Transcona	N.D.P.
REIMER, Jack	Southdale	P.C.
ROBINSON, Eric, Hon.	Rupertsland	N.D.P.
ROCAN, Denis	Carman	P.C.
RONDEAU, Jim	Assiniboia	N.D.P.
SALE, Tim, Hon.	Fort Rouge	N.D.P.
SANTOS, Conrad	Wellington	N.D.P.
SHELLENBERG, Harry	Rossmere	N.D.P.
SCHULER, Ron	Springfield	P.C.
SELINGER, Greg, Hon.	St. Boniface	N.D.P.
SMITH, Joy	Fort Garry	P.C.
SMITH, Scott, Hon.	Brandon West	N.D.P.
STEFANSON, Heather	Tuxedo	P.C.
STRUTHERS, Stan	Dauphin-Roblin	N.D.P.
TWEED, Mervin	Turtle Mountain	P.C.
WOWCHUK, Rosann, Hon.	Swan River	N.D.P.

LEGISLATIVE ASSEMBLY OF MANITOBA

THE STANDING COMMITTEE ON INDUSTRIAL RELATIONS

Tuesday, July 2, 2002

TIME – 6:30 p.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mr. Daryl Reid
(Transcona)**

**VICE-CHAIRPERSON – Mr. Cris Aglugub
(The Maples)**

ATTENDANCE - 11 – QUORUM - 6

Members of the Committee present:

Hon. Mr. Ashton, Hon. Mses. Barrett,
McGifford

Messrs. Aglugub, Mrs. Dacquay, Messrs.
Jennissen, Penner (Steinbach), Pitura, Reid,
Santos, Schuler

WITNESSES:

Mr. Steve Kohlmeyer, Manitoba Association
of Architects

MATTERS UNDER DISCUSSION:

Bill 29–The Engineering and Geoscientific
Professions Amendment Act

Bill 30–The Architects Amendment Act

Mr. Chairperson: Good evening, ladies and gentlemen. Will the Standing Committee on Industrial Relations please come to order. This evening the committee will be considering the following bills: Bill 29, The Engineering and Geoscientific Professions Amendment Act; and Bill 30, The Architects Amendment Act.

We have a presenter registered to make a presentation on Bill 30, The Architects Amendment Act.

It is the custom to hear public presentations before consideration of bills. Is it the will of the

committee to hear public presentations on the bill? *[Agreed]*

The name of the person registered to speak this evening is Steve Kohlmeyer, Manitoba Association of Architects. Those are the persons and organizations that have registered so far. If there is anybody else in the audience that would like to register, or who has not yet registered and would like to make a presentation, would you please register at the back of the room with the Clerk.

Just a reminder that 20 copies of your presentation are required for members of the committee, and if you require assistance with photocopying, please see the Clerk of this committee, sitting here to my right. Before we proceed with the presentations, is it the will of the committee to set time limits on presentations?

Mr. Cris Aglugub (The Maples): Mr. Chair, I move that we observe the usual time limits: 15 minutes for presentation and 5 minutes for questions and discussions.

Mr. Chairperson: The motion has been made that the time limits be set at 15 minutes for presentations and 5 minutes for questions and answers. Since it has been made as a motion, that would have to be made in writing. Looking for the indulgence of the committee, if there is agreement, or just a recommendation or a suggestion. Is there leave to withdraw the motion and agree on 15 and 5? *[Agreed]*

Fifteen minutes for presentations and five for question and answers. Thank you.

How does the committee propose to deal with presenters who are not in the audience today but have their names called? Shall these names be dropped to the bottom of the list? *[Agreed]*

Standard process. Shall the names be dropped from the list after being called twice? *[Agreed]*

Does the committee wish to indicate how late it is wishing to sit this evening? Till the committee is finished clause by clause of the bills in consideration? Thank you to members of the committee.

Now we move to presentations on Bill 30, The Architects Amendment Act.

Bill 30—The Architects Amendment Act

Mr. Chairperson: We would call Mr. Steve Kohlmeyer to the podium, please, sir.

Mr. Steve Kohlmeyer (Manitoba Association of Architects): So I just start in? Is that the first pole?

Mr. Chairperson: You may, please.

Mr. Kohlmeyer: The amendments that are coming forward are housekeeping, we think, fairly straightforward. We are not legislators, but from what the lawyers tell us, these are fairly straightforward housekeeping-type amendments. The main reason to have pursued this on our end is to achieve a level of consistency with the other professions in Manitoba, and a level of consistency with other architectural associations and the regulations under which they practise across Canada in the interests of consistency and free trade and kind of regular practice process; and also, trying to, as a result of that consistency, hoping that that consistency also serves at the international level as well, which is also an important issue for all of us.

We have four main directions, which you see. Since you have it in front of you, I will try not to bore you with reading what is already in front of you, so I will kind of read from notes. Certainly, to provide consistency in trade practices is important, and we would like to, or hope to, have the ability to practise, the formats under which we can practise, be broadened somewhat to conform with practices in other provinces.

First of all, we would like to formalize the practice of having partnerships with corporations, which is a legal partnership arrangement under which a number of professions practice, to allow other types of group practice such as joint

ventures and consortia, which are fairly normal, but, in fact, do not exist within the framework of the act at the moment; and also to permit temporary licences, particularly for specialists outside of Manitoba who are licensed to practise outside of this jurisdiction, but do not have to go through a full registration process as long as they work with firms that are registered in the province.

The second direction is to protect the public interest through establishing penalty provisions for unauthorized practice which are more in line with current dollar value and current practice in other professions.

A current maximum fine for what, in fact, is a criminal act is \$500. We would request that the numbers be changed to \$10,000 for a first offence and \$20,000 for a final offence. I understand those are the same numbers that exist in the other professions in the province.

The third issue, which is, we think, critical for public safety is to broaden the ability to address illegal or unauthorized practice of architecture in the province. As it stands now, our only mechanism is a summary conviction through the criminal courts, which is extreme in time and public cost and private cost, and also requires the burden of proof and the process of criminal proceedings when, in fact, we are not talking normally about criminal levels of action. The standard of recourse in other professions is the ability to institute civil proceedings through injunctions, and we are asking to have that right formalized in our act.

The fourth one, as you can see on your notes, is to update the internal discipline process in response to appeals. As it stands now, we are required to go through, I think, three levels of courts in the formal court system if there are appeals made from our internal discipline process. In the Law Society and the medical profession, the intermediate level has been dropped, and we go immediately to the Court of Appeal. We would request that we have that just as a matter of streamlining the processes under which we act.

So that is the short background. I suspect you also received a formal legal draft, but what I

have just presented is the gist of what we are coming forward for. Are questions appropriate as the normal process now?

Mr. Chairperson: Yes, if you are concluding your presentation, Mr. Kohlmeier.

Mr. Kohlmeier: Yes.

Mr. Chairperson: Thank you very much for your presentation.

Mr. Ron Schuler (Springfield): Steven, good to see you again. I understand you were out of town for a while.

Mr. Kohlmeier: Yes.

* (18:40)

Mr. Schuler: Welcome back. The CTTAM sent us a letter, and I just want to read to you a couple of things, changes that they would like to see, and if you would just reflect on them.

The CTTAM believes the fines proposed are excessive and do not serve the public interest as the association retains them. That was the one comment they had, and they felt that—*[interjection]* Believes the fines proposed are excessive and do not serve the public interest as the association retains them.

Mr. Chairperson: Mr. Kohlmeier, if I could interrupt just for a moment, please. I have to recognize each individual for the purposes of the recordings here today. So, if you would not mind then, I will recognize you. If you wish to respond, Mr. Kohlmeier.

Mr. Kohlmeier: One clarification, I did not understand the sentence, but I do now.

Mr. Schuler: Steven, did you want to just reflect on that? What are your feelings?

Mr. Kohlmeier: I am still unclear with the real intent of their sentence in terms of retaining. I am assuming we retain the rights to practise architecture, in any case, and therefore an additional penalty is irrelevant since we already have the right. We are the only ones with the right to practise architecture.

Mr. Schuler: I think what the CTTAM, and I do not speak for them, but I think what the letter is trying to say is that the fines are excessive, and do not serve the public interest. It seems to me that your association keeps the fine. Is that correct?

Mr. Kohlmeier: No, I do not think we keep the fine. The fine goes through the judicial process. *[interjection]* Gotcha. I understand now.

I suspect we would have to do a little more homework to see who keeps the money, but as far as our executive director is aware, the money goes into the public purse. The fact that the numbers we are talking about are parallel to the other professions in Manitoba, I would suggest that it is perfectly appropriate to have them be parallel to the other professions. They are to impose a level of caution on those who would do what they are not supposed to do and \$500 does not impose much caution as a number, whereas \$10,000 does.

Hon. Becky Barrett (Minister of Labour and Immigration): Thank you for your presentation, and I actually do have an answer to Mr. Schuler's question. In the current legislation, which is not scheduled to be changed by this bill: "Disposition of penalty . . . The penalty imposed upon any such conviction shall be forthwith paid over to the Minister of Finance, one half of which shall be applied to the Consolidated Fund, and the other shall be paid to the treasurer of the association for the use of the association."

Mr. Kohlmeier: If I could respond to that as further clarification. The costs to us of pursuing these events are very high, so we would suggest that if a judgment is reached against someone, then they presumably were responsible for doing something they should not have been doing, and, as well, to assist us in our internal expenses is perfectly reasonable.

Mr. Schuler: There was one other thing, and I will read it to you from the letter. The CTTAM requests that this clause, and I will read it for you, be added to The Architects Act, as there is no recognition of The Certified Applied Science Technologists Act in The Architects Act.

Addition of this clause will correct the void, and the clause is: Nothing in this act applies to prevent a person who is certified under The Certified Applied Science Technologists Act in an engineering discipline from engaging in an act that constitutes the occupation of applied science technology.

Mr. Kohlmeyer: If I could pretend to be a lawyer for a moment, which I am definitely not, so with apologies, I understand that acts only refer to legally entitled entities who exist in themselves under act. This group does not exist under any legislation anywhere across the country, and to give them the level of recognition through an act, I believe, would be inappropriate at the legal end. I believe that this is just a group of people who practise a level of service in the community, just like lots of others. I think it is inappropriate that they be referred to directly, at all, within a professional act.

Mr. Schuler: Again, thank you very much for coming. I appreciate your presentation. They asked that definition of "architect" be made broader to include: "architect" means "any person who is engaged, for hire, gain or hope of award in the planning or supervision for others of the erection, the enlargement or alteration of buildings by persons other than himself, herself and that concerns the safeguarding of life, health, property, economic interests or the environment."

Any comments on that?

Mr. Kohlmeyer: I believe the only proposed change is the last clause, is that right? Again, I am not a lawyer. You are only telling me this for the first time, but it strikes me that whether the last clause is exclusive or inclusive is a critical issue. I suspect they intend it to be exclusive. Therefore, if they are only looking after a public whatever their last clause was, then they are okay to practise what we might consider as architecture.

So, if that is the intent, and that is the only intent I can quickly surmise, I would guess it is inappropriate. The definition of "architecture" that exists, without that final clause, has stood, I believe, for 80 years in the province, and I see no reason to make any adjustments to it.

Mr. Chairperson: Thank you, Mr. Kohlmeyer, for your presentation this evening. Thank you, sir.

That concludes the list of presenters that I have before me this evening. Are there any other persons in attendance who wish to make presentation this evening?

Seeing none, is it the will of the committee to proceed with detailed clause-by-clause consideration of Bills 29 and 30? *[Agreed]*

In what order does the committee wish to consider the bills? In the numerical sequence, Bill 29 first? Thank you.

Bill 29—The Engineering and Geoscientific Professions Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 29 have an opening statement?

Hon. Becky Barrett (Minister of Labour and Immigration): No, I do not. I have put the principles of the legislation on the record in second reading, and I think my understanding is that the Opposition is in agreement with the principles of the legislation. So I am pleased to make that statement on the record. It does not happen all that often.

Mr. Chairperson: I thank the minister. Does the critic from the Official Opposition have an opening statement?

Mr. Ron Schuler (Springfield): Other than saying we appreciate the work that is done on behalf of us, the citizens, to make sure that our buildings, our communities look as good as they do. We thank the architects and all those involved, and we would like to see us move on with passing this legislation.

Mr. Chairperson: Thank you, Mr. Schuler. During the consideration of a bill, the enacting clause and the title are postponed until all other clauses have been considered in their proper order.

Also, if there is agreement from the committee, the Chair will call clauses in blocks

to conform to pages, with the understanding that we will stop at any particular clause, or clauses, where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1 and 2(1)–pass; clauses 2(2) and 3–pass; enacting clause–pass; title–pass. Bill be reported.

I will now move to Bill 30.

Bill 30–The Architects Amendment Act

Mr. Chairperson: Does the minister responsible for Bill 30 have an opening statement?

Hon. Becky Barrett (Minister of Labour and Immigration): Again, very brief. This is another piece of legislation that we are pleased to bring in with the agreement of the Opposition. I would like to thank Mr. Kohlmeyer for coming on behalf of the Manitoba Association of Architects to raise issues, and to come out this evening and to make your presentation. So, thank you.

Mr. Chairperson: Thank you, Madam Minister. Does the critic for the Official Opposition have an opening statement?

* (18:50)

Mr. Ron Schuler (Springfield): Seeing as under Bill 29, The Engineering and Geoscientific Professions Amendment Act, I thanked the architects for all their hard work, I think it is fitting that under Bill 30, The Architects Amendment Act, I thank the

engineers and geoscientific profession for all their work. We have been busy today doing a lot of other things, the minister and I, Estimates and so on and so forth. To all the professions involved, we certainly appreciate all the efforts and work and keeping us safe and keeping our communities looking the way they do in a very modern and clean fashion. We thank all the professions, and we would like to see this legislation pass as well.

Mr. Chairperson: Thank you, Mr. Schuler. During the consideration of a bill, the enacting clause and title are postponed until all other clauses have been considered in their proper order. Also, if there is an agreement from the committee, the chair will call clauses in blocks that conform to pages, with the understanding that we will stop at any particular clause or clauses where members may have comments, questions or amendments to propose. Is that agreed? *[Agreed]*

Clauses 1 and 2–pass; clauses 3 and 4–pass; clauses 5 and 6–pass; clauses 7–9(2)–pass; clause 9(3)–pass; clauses 10 and 11–pass; clause 12–pass; enacting clause–pass; title–pass. Bill be reported. *[Agreed]*

Thank you to members of the committee. The hour being 6:52, what is the will of the committee?

Some Honourable Members: Committee rise.

Mr. Chairperson: Committee rise. Thank you to members of the committee.

COMMITTEE ROSE at: 6:52 p.m.