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**Official Report
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(Hansard)**

Thursday 1 October 2009

**Journal
des débats
(Hansard)**

Jeudi 1^{er} octobre 2009

**Standing Committee on
Finance and Economic Affairs**

Public Sector Expenses
Review Act, 2009

**Comité permanent des finances
et des affaires économiques**

Loi de 2009
sur l'examen des dépenses
dans le secteur public

Chair: Pat Hoy
Clerk: William Short

Président : Pat Hoy
Greffier : William Short

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS**

**COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES**

Thursday 1 October 2009

Jeudi 1^{er} octobre 2009

The committee met at 1401 in room 151.

**PUBLIC SECTOR EXPENSES
REVIEW ACT, 2009
LOI DE 2009
SUR L'EXAMEN DES DÉPENSES
DANS LE SECTEUR PUBLIC**

Consideration of Bill 201, An Act to provide for review of expenses in the public sector / Projet de loi 201, Loi prévoyant l'examen des dépenses dans le secteur public.

The Chair (Mr. Pat Hoy): The Standing Committee on Finance and Economic Affairs will now come to order. We are here for clause-by-clause consideration of Bill 201. Are there any comments?

Mr. Paul Miller: Just for the record, I'd like to say that we voted in favour of this today because we don't want to stand in the way of accountability and any investigations that may go on in reference to spending. I must say, with all due respect, that this bill is woefully underworded—it's got so many holes in it, it's worse than Swiss cheese—but I personally, like I said, didn't want to stand in the way of progress when it comes to bringing people on the carpet for explanations of why money is going where it goes.

I've got one amendment and the PCs have a few, which we will address as we go. When we get into the clause-by-clause, I have a couple of comments, but there's not really much to deal with, so I don't really have a lot to say.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Peter Shurman: I'd like to say a couple of things about this. I found myself in the media conference called by Minister Duncan the day that he was revealing the problems in OLG that sparked the 24-hour-later appearance by Premier McGuinty to announce that he was going to bring legislation forward, to wit, this legislation.

I don't want to pursue debate in this forum. It's not the forum for it, and we've already had our say in the House. The fact of the matter is, what we're dealing with is a very short and, as my colleague from the NDP says, insufficient bill. So I'm hoping, as we bring forth a series of amendments on the part of the PC caucus here, that my colleagues from the other side understand that it certainly isn't accountability that we're against—we're screaming for it, God knows, in the House every day.

So while we've voted against this bill, we're putting forward amendments in the hopes that these amendments are seen for what they are, which is to add some precision to a bill that was hastily crafted, that at the end of the day brings something to this place that is clearly sorely needed. We feel that way, the third party seems to feel that way and clearly, by putting the legislation forward, the government feels that way. To that end, I hope they're taken in the spirit in which they're intended.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Wayne Arthurs: Very briefly. Although I could make some generalized comments around the legislation, I think our interest here this afternoon collectively is to deal with the bill and certainly with the amendments that have been presented by the official opposition and the third party, and we will try to respond accordingly to the amendments in the hope of providing additional clarity as well. So we're anxious, I think, as the opposition is, to move forward with the bill and the amendments this afternoon.

The Chair (Mr. Pat Hoy): Thank you. Any other comment? Hearing none, we will move to the motions.

The first motion is an NDP motion. Mr. Miller, if you'd read it into the record.

Mr. Paul Miller: I move that the definition of "public entity" in section 1 of the bill be struck out and the following substituted:

"public entity" means,

"(a) a body prescribed as a public body under clause 8(1)(a) of the Public Service of Ontario Act, 2006,

"(b) an agency, board, commission, corporation or other body designated as an institution under clause 60(1)(i) of the Freedom of Information and Protection of Privacy Act, and

"(c) a public entity prescribed under clause 10(1)(a)."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Paul Miller: We feel that this entails more scrutiny on the part of the government and covers more areas that have been overlooked or omitted from this bill. We feel that this may close the gap on sections and probably do the government a favour and us all a favour by covering areas that aren't covered at this point. So we're hoping that the government will expand their coverage on who they'd like to be accountable.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Peter Shurman: I have no objection to that amendment. Of course, you'll introduce one that we're bringing forward of our own.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Wayne Arthurs: The challenge with the amendment, I think in part, is that just by a fairly quick analysis that ministry staff were able to do—and they're certainly here if need be on any detailed questions—it would add some 180-plus agency groups to the reporting mechanism through the Integrity Commissioner. Certainly at this stage that would be, I think, cumbersome from a logistical standpoint. The regulatory regime that will be in place, subject to the legislation being passed, would allow for the addition of agencies, boards and commissions beyond the 22 already designated for this particular purpose.

It would be my view generally that it's important that we get this process under way, that the rules become increasingly clear to those boards and agencies. But having said that, imposing a regime that would see the addition of 180-plus organizations reporting would be very, very cumbersome, and certainly some of the debate in the Legislature was around even the capacity of the Office of the Integrity Commissioner to manage the scale of work that might be envisioned.

The Chair (Mr. Pat Hoy): Mr. Miller.

Mr. Paul Miller: I appreciate the lead for the Liberals on his submission, but if you want a bill to be a bill and to be effective, it has to cover all agencies, all committees, all people who are in a position that could be questionable when it comes to finances. You don't want to pick and choose, cherry-pick, who you want to do.

I agree with you that 180 agencies would be extremely cumbersome, but you can choose so many a year; it doesn't have to be all 220 every year.

Why leave them out initially from being covered by the bill? You're going to have more meetings to reinstate or add people or agencies to this all along, which will become more bureaucratic red tape, more time, more money and a waste of taxpayers' dollars on bureaucrats, as well as politicians, trying to force more agencies to come under that umbrella. If you put them all under the umbrella at the beginning, you can pick and choose.

We are flexible. We don't expect you to do all 220 in one year, but you could certainly pick ones other than the ones that the government chooses. It probably would give the public a safe feeling if they knew that the opposition could occasionally pick an agency to look at without anyone preparing for it coming and basically not to catch them off guard, but be able to have accountability and openness that we could choose whatever it is—10, 20 or 30, whatever the committee chooses to do that year—and not add workload to the commissioner's office that would be unreasonable and would not work. I think this is what we mean by this. We're not expecting you to do them all.

1410

I hope that you're going to take this under consideration when this comes to a vote, because by only designating 20 or 22—I forgot the exact number—it doesn't cut it, because you yourself said there are 180 possibilities. So I don't think it's going to give the public

a warm feeling if you're only doing 22 out of 200-odd. Please take that into consideration, that you'd save the taxpayers a lot of money if you put them all under that umbrella now.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed? The motion is lost.

Now we have a PC motion on page number 2 in your packet. Mr. Shurman, if you would read into the record.

Mr. Peter Shurman: I move that the definition of "public entity" in section 1 of the bill be struck out and the following substituted:

"'public entity' means,

"(a) a public entity prescribed under clause 10(1)(a); and

"(b) a public entity listed in schedule 1 to this act."

The Chair (Mr. Pat Hoy): Any comment?

Mr. Peter Shurman: I'll simply say that schedule 1 is 22 boards, agencies and commissions that are in a motion—since we're talking about a schedule that doesn't exist yet, there will be a motion moved that outlines specifically as schedule 1 the 22 aforementioned boards and agencies.

The Chair (Mr. Pat Hoy): Thank you. Any other comment? Mr. Arthurs?

Mr. Wayne Arthurs: The challenges in this particular amendment, I think, are a couple-fold. It would appear to reduce some capacity to have flexibility from a regulatory regime standpoint to be readily able to add additional bodies to this in an effective way. It may very well require a legislative amendment if, in effect, this is adopted and if the last amendment, I'll call it—the second-last, as the case might be—as proposed is adopted.

One of the other challenges in putting the names specifically in the legislation as opposed to doing it through the regulatory framework, as I understand it, would be that in the event some of the organizations have name changes, it may very well require one to come back and amend the legislation to bring those agencies in line with the legislation for reporting.

I only looked quickly at a couple on the last part of the amendment, just as examples only, but Ontario Power Generation—we all know from our history that old Ontario Hydro became two different organizations. If, in effect, Ontario Power Generation became a different organization, one would have to presumably amend the legislation to then bring it under the framework if it was done in this fashion in the legislation rather than by regulation.

The Chair (Mr. Pat Hoy): Thank you. Mr. Shurman.

Mr. Peter Shurman: With respect, the first part of this where we mention clause 10(1)(a) gives you powers that are as broad as the broad side of a barn to change and modify as you see fit, and that's already in there. All we're saying—and I mentioned this in my comments before we began the clause-by-clause—is that we want more precision. So the 22 named boards, agencies and commissions are simply referred to in our clause (b), and

it doesn't in any way limit the opportunity that you have to change, add, subtract, or whatever, by regulation anything as it comes along. So we're saying, "Be more specific." I don't see why you would have an objection to that. It helps you; it helps us.

The Chair (Mr. Pat Hoy): Thank you. Any other comment? Hearing none, I'll put the question: All in favour? Opposed? The motion is lost.

Shall section 1 carry? All in favour? Carried.

Shall sections 2 to 4, inclusive, carry? All in favour? Opposed? Carried.

We do have an amendment under section 5. The PCs, the official opposition, page 3. Mr. Shurman.

Mr. Peter Shurman: I move that section 5 of the bill be amended by adding the following subsections:

"Review and consultation

"(3) Before making a regulation under this section, the Lieutenant Governor in Council shall make its proposed regulation available to the public and shall provide members of the public with an opportunity to review the proposed regulation and comment on it.

"Same

"(4) The Lieutenant Governor in Council shall make the proposed regulation available to the public in the manner directed by the Integrity Commissioner."

The Chair (Mr. Pat Hoy): Comment?

Mr. Peter Shurman: A comment very simple and specific and repetitive—for further precision.

The Chair (Mr. Pat Hoy): Thank you. Any other comment?

Mr. Wayne Arthurs: It would be the government's position that our desire will be to follow the concurrent practice in the context of the regulatory approval process in ensuring that those regulations are part of the public record.

The Chair (Mr. Pat Hoy): Thank you. Any other comment? Hearing none, I'll put the question. All in favour? Opposed? It is lost.

Shall section 5 carry? All in favour? Carried.

There are no amendments to sections 6 or 7. Shall they carry? Carried.

Section 8, from the official opposition. Mr. Shurman, if you'd read it, please, page 4.

Mr. Peter Shurman: I move that subsection 8(5) of the bill be struck out and the following substituted:

"Advice

"(5) If the amount is not repaid or remedial action that the commissioner considers appropriate is not taken on or before the specified date, the commissioner,

"(a) shall advise the minister responsible for the public entity in question and the Premier of Ontario; and

"(c) may advise such persons as the commissioner considers appropriate in the circumstances, as to any matter that the commissioner considers appropriate in the circumstances."

The Chair (Mr. Pat Hoy): Comment?

Mr. Peter Shurman: I think it's pretty obvious we're talking about what's been the discussion in the House in the last couple of weeks: ministerial responsibility. The

government wants to place this in the hands of the Integrity Commissioner, and the Integrity Commissioner has to have some linkage back to the minister so that that ministerial responsibility can be fulfilled and can be seen to be fulfilled. That's the nut of this amendment.

The Chair (Mr. Pat Hoy): Thank you. Mr. Miller?

Mr. Paul Miller: I have no problem with this amendment. I think it also continues to bring more accountability and it also allows some flexibility for the commissioner to respond to the possible penalties or direction they may give in connection with the minister to go after the people who should be repaying or have been lax in their duty. I think this just keeps it in check and it allows a venue to question why it wasn't done. I think that's good for the public, to be able to have a way to go without having to be shut out.

The Chair (Mr. Pat Hoy): Thank you. Any other comment?

Mr. Wayne Arthurs: I appreciate what the official opposition is trying to achieve from their perspective in the context of higher levels of clarity and specificity, if I can call it that. My understanding is that to a large extent the Integrity Commissioner already has within the overall legislative framework the capacity to advise people of matters related to her jurisdiction, but I would think most specifically she has the capacity and role as an officer of the Legislature primarily through the Speaker in the fashion the Integrity Commissioner would deem fit under her jurisdiction. Thus, we're not supportive of the inclusion in the legislation of the naming of the Premier and/or a cabinet minister directly.

The Chair (Mr. Pat Hoy): Mr. Miller?

Mr. Paul Miller: Mr. Chair, I'd like to ask for a recorded vote on this one.

The Chair (Mr. Pat Hoy): A recorded vote is requested. Any other comment? We'll move to the vote then.

Ayes

Miller, Shurman.

Nays

Arthurs, Hoskins, Rinaldi, Sousa, Van Bommel.

The Chair (Mr. Pat Hoy): The motion is lost.

Shall section 8 carry? All in favour? Carried.

This is a new section 8.1. Mr. Shurman.

1420

Mr. Peter Shurman: I move that the bill be amended by adding the following section:

"No interference with commissioner's decisions

"8.1 Neither a minister nor the Premier of Ontario may overrule a decision of the commissioner made under this act."

If I may, I think the idea here is pretty obvious. It's to, again, demonstrate both to people who are involved and

the public at large that we're out of the realm of political interference. I'm not suggesting that there would be. I'm suggesting that we want the public to see that we aren't.

The Chair (Mr. Pat Hoy): Very good. Mr. Miller.

Mr. Paul Miller: I concur with his comments. I believe there should be no ministerial interference, and that goes for the Premier's office as well. Once the commissioner has made a decision—that's what they're paid to do—it's based on their best evidence they have in front of them and the best decision they will make. After all, it is their job to do that, and I don't think anyone above them should have the ability to reverse a decision. I will be supporting this, and I'm also asking for a recorded vote on this.

The Chair (Mr. Pat Hoy): Very good. We'll note that. Mr. Arthurs.

Mr. Wayne Arthurs: I think it's fair to say, Mr. Chairman, that in the context of the role of the commissioner and the capacity of either a minister or a Premier to overrule the commissioner, this side would be in agreement that in effect they do not have that responsibility. They cannot override the decision of the Integrity Commissioner. The Integrity Commissioner is responsible ultimately to the Legislature as a legislative office.

Respectfully, there's no need for this inclusion. The capacity already exists in which the Integrity Commissioner can do his or her job and report accordingly through to the responsible body, being the Legislature. Neither the minister nor the Premier has that capacity currently, so to put an inclusion that said they can't override it would be redundant when in fact they do not have that authority.

The Chair (Mr. Pat Hoy): Mr. Miller.

Mr. Paul Miller: Could I possibly get the legal people to show me that and show me where it says that, that the Premier or cabinet cannot overrule an Integrity Commissioner's decision. I've never seen that.

Mr. Wayne Arthurs: Mr. Chairman, we do have Don Fawcett from the ministry here, and he'd be more than happy to provide whatever insight he has available to him or with him at this point, as the case might be.

The Chair (Mr. Pat Hoy): If you would identify yourself for Hansard first and then you can continue.

Mr. Donald Fawcett: My name is Donald Fawcett. I am counsel in the Ministry of Government Services.

The question I've been asked to address is where in the bill we could see that it's evident that the Premier or a minister can't override a decision of the commissioner made under the act. I think it's helpful to outline the framework of the act and understand what the commissioner can do and the accountability relationship as between the commissioner and people who are subject to the bill.

Under the framework, public entities that will be listed in the regulation are subject to the act. An expenses officer is designated for each of those public entities, and the expenses officer has the accountability relationship to the Integrity Commissioner. So that person is responsible

for providing the Integrity Commissioner with the expenses of all the people who are designated in the regulations under this act. The commissioner reviews those expenses against the standards that are set out in the regulation. If she has questions or concerns—if she wants to require someone to repay an expense, she'll make that direction back to the expenses officer in the particular agency subject to the act.

So under the act, if we take a look at one of the sections, you'll see it in subsection 8(2). You'll see that the commissioner, after her review, can do several things. She can notify the expenses officer—sorry, that's in respect of her review—of any matter she considers appropriate. If she finds that an expense is not allowable under the rules, she can direct the expenses officer to require that individual who filed that expense claim to repay it. She can also recommend remedial action.

So what happens then? The expenses officer directs the individual to repay the expense or they undertake the remedial action that the commissioner deems appropriate. Then the expenses officer is required to report back to the Integrity Commissioner as to whether or not the expense has been repaid or whether or not the remedial action has been undertaken. If an expense hasn't been repaid or remedial action hasn't been undertaken, that could be a matter that the commissioner addresses in her report. As I say, the relationship is between the expenses officer and the Integrity Commissioner.

Mr. Paul Miller: But that doesn't answer my question. Where does the ministry fit in to this situation? If they go through all those processes and don't get what they want, do they go to the ministry and then to the Premier's office for further direction on how to penalize or collect or do whatever they have to do? It does not say that in the bill. I asked you if there is anything presently in the legislation that allows the cabinet or the Premier to overrule a decision of the Integrity Commissioner.

Mr. Donald Fawcett: No, there is nothing in the bill that says—

Mr. Paul Miller: Not the bill, the legislation. Is there anything in the legislation that covers the ministry?

Mr. Donald Fawcett: If we're talking about a particular agency—

Mr. Paul Miller: I don't think I'm getting an answer here.

Mr. Donald Fawcett: I'm trying to answer your question with respect to the provisions of the bill. In the scenario I outlined, which is where—

Mr. Paul Miller: Actually, it's not what I want. The provisions of the bill are evident. I'm reading that, and I understand that. What I'm asking you is, can the Premier and the cabinet overrule the Integrity Commissioner? Can they step in if things aren't going right? You said that's the fact and I don't see that anywhere. I don't see it in this bill, and I don't see it in the legislation. You said it is there, it's a known fact. I don't see it. So I'm asking you, and you're not telling me.

Mr. Donald Fawcett: In this case, either the person repays the expense or they undertake the remedial action.

Mr. Paul Miller: Who takes the remedial action?

Mr. Donald Fawcett: If the commissioner requests that something happen in a particular agency by way of remedial action—perhaps she'll ask for special training to happen—

Mr. Paul Miller: Whatever.

Mr. Donald Fawcett:—then the expenses officer has to come back to the commissioner and say, “The expense was repaid” or “The expense was not repaid,” or “We took the remedial action” or “We didn't take the remedial action.” That's what I say is the accountability relationship.

Mr. Paul Miller: But could the ministry or the Premier step in at any given point and say, “That's not necessary. You don't have to go that route. We don't need that”? All I'm saying is, could there be any interference from those two higher bodies with the Integrity Commissioner, who reports to cabinet, I'm sure. I'm asking. There's nothing in the present legislation that says they're not to touch it, is there?

Mr. Donald Fawcett: No, there's nothing in the legislation that says the Premier—

Mr. Paul Miller: Thank you. That's on record. Sorry to give you a hard time.

The Chair (Mr. Pat Hoy): Mr. Arthurs?

Mr. Wayne Arthurs: My comments were that it's my understanding that there's nothing in this legislation, this bill before us—

Mr. Paul Miller: That's not what you said.

Mr. Wayne Arthurs: No, let me finish. I didn't say there was anything in this bill, nor is there anything, to my knowledge, in this bill as such. I said the Integrity Commissioner reports to the Legislature. She's an officer of the Legislature, not an officer of government. There is no provision for the minister or the Premier to override a decision of the Integrity Commissioner.

Mr. Paul Miller: I've asked to see that.

Mr. Wayne Arthurs: It does exist within her legislative framework as the officer, not within this bill. That already exists within her overall—

Mr. Paul Miller: Mr. Chairman, with all due respect, I'm not getting an answer, so I won't ask any more. I'll just have a recorded vote on this, please.

The Chair (Mr. Pat Hoy): Mr. Shurman?

Mr. Peter Shurman: The problem is that you're asking us to take a lot on faith. You've just made a statement about what is in the legislation, and we put the legal expert up and he said, “No, it's not in the legislation.”

This is a very simple request, and I would think you would be in favour of it: “Neither a minister nor the Premier of Ontario may overrule a decision....” You're saying they can't. Okay. So what's wrong with the amendment? The amendment is just there for further clarity. I see no reason in the world why you and your colleagues shouldn't vote for this. I see no reason in the world why the Premier wouldn't be happy to have this particular phrase enshrined in the legislation itself.

The Chair (Mr. Pat Hoy): Mr. Arthurs?

Mr. Wayne Arthurs: A final comment: The Integrity Commissioner is an officer of the Legislature. That office is not an agency or an office of the government. In my view, it would be inappropriate to include in legislation, in essence, that anybody—minister or Premier—should be identified in that fashion as having a particular function when the Integrity Commissioner's legislation establishes that that office is responsible to the Legislature as a whole—not government; all members of the Legislature. I think that the provision of her legislation precludes the override by a minister or the Premier.

1430

The Chair (Mr. Pat Hoy): Mr. Shurman?

Mr. Peter Shurman: One last thought on this: I hear what you're saying, and I'd love to take it on faith; I'm quite sure you're being sincere when you say it. Having said that, being on the opposite side on things—for example, freedom-of-information requests, which are supposed to be fulfilled within 30 days, but we've had experience and still are having experience where it's months, sometimes eight or nine months, before something comes out—I can't take it on faith that without this kind of specificity in a law we're looking at enacting on Monday, we're not going to have interference being run at the very least on anything that comes out of the Office of the Integrity Commissioner that might be unwanted in the public domain.

I see no reason why you would say no. It's not about Premier McGuinty; it's about anybody who becomes Premier of Ontario in the future. I should think we would all want that there.

The Chair (Mr. Pat Hoy): Mr. Miller?

Mr. Paul Miller: I concur. You've got a third party, the commissioner, who should not have to answer to anyone. The Integrity Commissioner is a self-entity through your description, and that means she should not have any interference from anyone—Premier, cabinet or the Legislature—when she makes a decision.

He or she reports to the Legislature on their final decision. Then, if all three parties vote on a change or amendment to the decision, it's democratic. But if you've got just the government—one Premier and one cabinet—deciding what's good for everybody, that's not democratic. That's my problem. So if they're out of it, then they don't have to worry about it. That's where I'd like to see this go, but obviously it's not going that way.

The Chair (Mr. Pat Hoy): Any other comment?

Hearing none, a recorded vote is requested.

Ayes

Miller, Shurman.

Nays

Arthurs, Hoskins, Rinaldi, Sousa, Van Bommel.

The Chair (Mr. Pat Hoy): The motion is lost. Section 9: A PC motion on page 6. Mr. Shurman.

Mr. Peter Shurman: I move that subsection 9(1) of the bill be amended by adding the following sentence at the end:

“The written report shall be made available to the public in such manner as the Integrity Commissioner directs.”

The Chair (Mr. Pat Hoy): We’re going to have to regroup. It’s subsections 9(1), (2), (2.1), (2.2), (2.3).

Mr. Peter Shurman: What did I do?

Interjection: You’ve got the wrong one.

Mr. Peter Shurman: I’ve been given this one.

Interjections.

Mr. Peter Shurman: Hang on. I’ve got it. I’ve got the wrong package. Sorry.

The Chair (Mr. Pat Hoy): That’s all right. We’ll start again.

Mr. Peter Shurman: Strike the rest.

I move that the bill be amended by striking out subsections 9(1) and (2) and substituting the following subsections:

“Report to assembly

“9(1) Each year, the Integrity Commissioner shall give the Speaker of the assembly a written report about the commissioner’s review of the expense claims of designated persons during the previous fiscal year.

“Same

“(2) The report required by subsection (1) shall include a full account of costs incurred by the Office of the Integrity Commissioner in carrying out the commissioner’s duties under this act, including but not limited to reviewing expenses under this act.

“Same

“(2.1) The report required by subsection (1) shall be a special report that is distinct from the annual report referred to in section 24 of the Members’ Integrity Act, 1994.

“Same

“(2.2) The written report shall be made available to the public in such manner as the Integrity Commissioner directs.

“Same

“(2.3) In addition to making the annual report required by subsection (1), the Integrity Commissioner shall immediately inform the Legislature of all orders to individuals for the repayment of expenses not allowed and other remedial actions ordered by the Integrity Commissioner.”

The Chair (Mr. Pat Hoy): Any comment?

Mr. Peter Shurman: No, it’s self-evident.

The Chair (Mr. Pat Hoy): Mr. Miller?

Mr. Paul Miller: I don’t have any problem with this. It’s quite explicit. It basically says that the Integrity Commissioner can report to all the parties and people of interest, including the public, and what actions they’ll take in reference to remedial actions they have ordered. Basically, it’s keeping everything upfront, and all the actions taken by the Integrity Commissioner would not be in question because they would be a public document.

The Chair (Mr. Pat Hoy): Any other comment?

Mr. Wayne Arthurs: As the mover of the motion pointed out, the Integrity Commissioner already does provide a comprehensive annual report on those matters under her jurisdiction. The matter that’s in consideration in this bill would be included within that annual report as a section of it. We don’t see the need for a separate annual reporting of that nature. We feel it’s certainly adequate, to say the least, to have that within her report.

From the standpoint of reporting the costs by the Office of the Integrity Commissioner, she, within her annual report, provides a complete costing analysis, and the Auditor General audits her financial statements. So we have in place the mechanisms already for both the provision to report, both fiscally and on the work in regard to this legislation, and the accountability measures through the Auditor General’s office to audit the finances in respect to this matter.

There is another provision in the amendment that speaks to informing the Legislature immediately of all orders to individuals for repayment of expenses etc. There are two problems: One, obviously, is, if there were a number of those—and one hopes there isn’t—it could be somewhat cumbersome as well to the Legislature.

Probably, for me, though, more important than that is that this speaks to “shall immediately inform the Legislature of all orders to individuals for the repayment of expenses not allowed.” That’s even prior to providing the window of opportunity to ensure the corrective action has been taken by the individual, who may inadvertently have made an expenditure they need to repay it and are quite happy to do that, but they will already have been reported to the Legislature for what might be inadvertence. That’s a bit of an extreme situation, but it’s one that could occur.

For those various matters, we’re not in a position to support the amendment.

The Chair (Mr. Pat Hoy): Any other comment? Mr. Miller?

Mr. Paul Miller: I’m disappointed with that response, actually. I think an annual report would eliminate repetition of the Integrity Commissioner doing only the 22 agencies that you’ve allotted so far. The other 180—we wouldn’t want the same agencies being reported on every year within that 22 boundary. I’d like to see other agencies done.

You could red-flag problem agencies or problem ministries with this annual report if it was coming up and was becoming repetitious. Then you’d be able to address it better. Also, you would not be doing the same agencies every year—nice, cozy agencies that keep everything tight, neat and clean, when you can go to the other ones where there might be problems. There are, as you mentioned earlier, 180 other ones that could fall under this jurisdiction.

So I think this simply says that they’ll report, and we—it gives us a record, in the opposition, to be able to know what ministries were inspected or what agencies were inspected the year before so that we don’t do the same ones again. For instance, if 12 or 14 of them come

up squeaky clean and we do those 12 or 14 again, that's no good. How about the other 170? There may be problems there.

So I think that we're missing the boat again on this bill, and I'll be voting in favour of this amendment.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, I'll put the question. All in favour?

Mr. Paul Miller: Recorded, please.

The Chair (Mr. Pat Hoy): A recorded vote is requested.

Ayes

Miller, Shurman.

Nays

Arthurs, Hoskins, Rinaldi, Sousa, Van Bommel.

The Chair (Mr. Pat Hoy): The motion is lost.

Shall section 9 carry? All in favour? Carried.

Section 10: A motion on page 7, official opposition. Mr. Shurman.

Mr. Peter Shurman: I move that section 10 of the bill be amended by adding the following subsections:

“Same

“(3) In making a regulation under clause (1)(b), the Lieutenant Governor in Council shall ensure that an expenses officer with respect to an entity is a qualified individual who is not an employee of or an appointee to the entity.

“Same

“(4) In making a regulation under clause (1)(c), the Lieutenant Governor in Council shall ensure that the following are designated persons for each public entity:

“1. All members of the board of directors of the public entity.

“2. All members of senior management of the public entity.”

My comments are brief: Again, this is for further clarity and for specifics.

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The Chair (Mr. Pat Hoy): Any other comment? Mr. Miller.

Mr. Paul Miller: Actually, I like this amendment because it mentions the word “qualified.” Some agencies or some groups—it may not be a chartered accountant, and you don't want to put that person in a position where they would make a mistake and it would cost them or their organization dearly, so you want qualified, trained people to handle any inquiries about finances. I like this, and I think that also isn't spelled out in the bill, amongst a million other things, but that's besides the point. So I would definitely support this.

The Chair (Mr. Pat Hoy): Any other comment? Mr. Arthurs.

Mr. Wayne Arthurs: The challenges with this amendment are of this nature: The Integrity Commissioner's function is one to act to review those expenses as

a third party entity, separate from the work of the public sector body that they're reviewing. What this is asking for is to have the expenses officer not being an employee or not being an appointee to the entity. It would seem to me that what makes eminent sense is to have your expenses officer—your chief financial officer or an internal auditor—as part of the entity who is close to it, and having your commissioner as the third party review agent. This would, in effect, create not only the Integrity Commissioner as a third party review agent, but your actual expenses officer would be a third party review agent, and you would still have to do the internal work regardless.

On the second part of the amendment, it speaks to a couple of things. One of the objectives of the regulatory framework that is being put in place is to be somewhat strategic in naming the members of a senior management team. Just saying “all members of senior management of the public entity” doesn't give enough definition, frankly. It may be the top tier—the president, CEO, the vice-president or vice-presidents, if that's the case, the CFO—as examples only of the type of senior management, but simply the more generic statement “all members of the senior management team” would be much harder to define when you're looking at the number of agencies that are currently envisioned, let alone any expansion that might occur in addition to that.

Clearly, the objectives would be to ensure that members of the board, much like members of the Legislature or cabinet ministers, would be automatically included within that. I think the regulatory framework that's being put in place will allow us to be more strategic in that way, but equally and probably more importantly, having the expense officer as part of the entity allows them to do the work and have the Integrity Commissioner as that third party who is then reviewing that material outside of the entity and takes out a layer of almost a secondary bureaucracy which would be built into the legislative activity.

The Chair (Mr. Pat Hoy): Mr. Shurman.

Mr. Peter Shurman: I can't believe what I'm hearing. You people wrote the book on being foggy. This whole bill is foggy. This bill is like a press release; it's not like a bill at all, and you sit there and you say to us that you don't like the language “all members of senior management” because it's not specific enough; you can't define the team? Do an amendment to the amendment and tell us who you want, but don't sit there and say that this is not specific enough when you're putting a bill out in front of us that as unclear as what you're doing.

The Chair (Mr. Pat Hoy): Mr. Miller.

Mr. Paul Miller: I'll try to be a little more genteel, but the bottom line here is that I think that when you have a structure in place and you have financial officers of any company or any government body, mistakes can be made—obviously, we're human; we make mistakes. But people on the inside have a tendency to want to cover up their mistakes for fear of losing their job, for fear of incompetence and fear of retaliatory moves by either the

government or their minister. Having a third party do it clears them of all that. If the mistakes are made, the third party points it out, that being an auditor who has no loyalty to the government, the ministry or the group being investigated. This person can do an open audit. If it was an honest mistake, they'll point it out and it can be corrected. If it was a mistake that was trying to be covered up by whomever, then they'll point that out too. But I think having a person in your own organization answering on both sides of the fence is not the way to go, and I think that creates even more questionable conduct and even more questions from the public: "Oh, it's an inside job." I don't like this at all.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, all in favour? Opposed?

Mr. Paul Miller: Recorded, too.

Interjection.

The Chair (Mr. Pat Hoy): All in favour? Opposed? The motion is lost.

Shall section 10 carry? All in favour? Carried.

Section 11: Opposition motion, page 8.

Mr. Peter Shurman: I move that section 11 of the bill be struck out and the following substituted:

"Transition

"11. This act applies with respect to expenses claimed during the fiscal year beginning on April 1, 2009 and ending on March 31, 2010."

Comments—pretty obvious: The bill would have things reviewed starting in September, that is, the month that ended yesterday. If we're really going to be publicly accountable, let's be honest with the public and let's be honest with ourselves and let's not take out a piece of the year we're still in that is very germane to what's going on publicly and not start with the point at which we made great discoveries about the transgressions at OLG and so forth.

Mr. Paul Miller: I concur.

The Chair (Mr. Pat Hoy): Mr. Arthurs.

Mr. Wayne Arthurs: Just really two comments: The September date was chosen because it really was at that point where the Premier was able to be more explicit in respect to those expectations that would reflect the public sector as we understand it in this building, these buildings we're in. He was able, at that point, to be far more explicit in respect to what was allowable and not allowable. The legislation follows, really, on those announcements and on those statements, so it seems most appropriate for the legislation to be effective and reportable from that point in time.

Secondarily, I know that the mover of the amendment, when it was being drafted—it probably didn't come to their attention, but as the amendment is currently written, the legislation would be in effect from April 1, 2009 until March 31, 2010, and then would cease to exist. I'm sure that wasn't the intent in drafting the amendment, but that would be the effect if the amendment was adopted, and that's certainly not the government's intention. I don't believe it would be the opposition's intention either. I think that would be a drafting error.

The Chair (Mr. Pat Hoy): Any other comment? Hearing none, I'll put the question.

Mr. Paul Miller: Recorded, please.

The Chair (Mr. Pat Hoy): Recorded vote.

Ayes

Miller, Shurman.

Nays

Arthurs, Hoskins, Rinaldi, Sousa, Van Bommel.

The Chair (Mr. Pat Hoy): The motion is lost. Shall section 11 carry? All in favour? Carried.

There are no amendments to 12 or 13. Shall those two sections carry? All in favour? Carried.

Opposition motion on page 9. Mr. Shurman.

Mr. Peter Shurman: I move that the bill be amended by adding the following schedule:

"Schedule 1

"The following are listed as public entities:

"1. Ontario Lottery and Gaming.

"2. Ontario Power Generation.

"3. Hydro One.

"4. Independent Electricity System Operator.

"5. Ontario Power Authority.

"6. Workplace Safety and Insurance Board.

"7. Liquor Control Board of Ontario.

"8. eHealth.

"9. Cancer Care Ontario.

"10. Ontario Infrastructure Powers Corporation (Infrastructure Ontario).

"11. Ontario Energy Board.

"12. Alcohol and Gaming Commission of Ontario.

"13. Ontario Financing Authority.

"14. Ontario Realty Corporation.

"15. Ontario Public Service Pension Board.

"16. Metrolinx.

"17. Ontario Human Rights Commission.

"18. Metropolitan Toronto Convention Centre Corporation.

"19. Ontario Educational Communications Authority (TVO).

"20. L'Office des telecommunications educatives de langue francaise de l'Ontario (TFO).

"21. Ontario Racing Commission.

"22. Ontario Clean Water Agency."

The Chair (Mr. Pat Hoy): Thank you. I'm going to rule the motion out of order. It was dependent on your first motion passing and it did not. It is out of order, but it is on the record. So there is no new section.

Shall the title of the bill carry? Carried.

Shall Bill 201 carry? Carried

Shall I report the bill to the House? Carried.

We are adjourned.

The committee adjourned at 1450.

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