

Third Session – Forty-First Legislature
of the
Legislative Assembly of Manitoba
Standing Committee
on
Legislative Affairs

Chairperson
Mrs. Sarah Guillemard
Constituency of Fort Richmond

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MANITOBA LEGISLATIVE ASSEMBLY
Forty-First Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LEGISLATIVE AFFAIRS

Monday, August 27, 2018

TIME – 11 a.m.

LOCATION – Winnipeg, Manitoba

**CHAIRPERSON – Mrs. Sarah Guillemard
(Fort Richmond)**

**VICE-CHAIRPERSON – Mr. Shannon Martin
(Morris)**

ATTENDANCE – 10 QUORUM – 6

Members of the Committee present:

Hon. Messrs. Fielding, Gerrard

Hon. Mrs. Mayer

*Mr. Curry, Ms. Fontaine, Mrs. Guillemard,
Messrs. Johnston, Lagassé, Martin, Swan*

APPEARING:

*Ms. Deanna Wilson, Director, Legislative
Assembly Human Resources Services*

MATTERS UNDER CONSIDERATION:

*Process for hiring a new Ombudsman for the
Province of Manitoba*

* * *

Clerk Assistant (Ms. Monique Grenier): Good morning. Will the Standing Committee on Legislative Affairs please come to order.

Our first item of business is the election of a Chairperson.

Are there any nominations for this position?

Mr. Shannon Martin (Morris): Ms. Guillemard.

Clerk Assistant: Okay. Mrs. Guillemard has been nominated.

Are there any other nominations?

Hearing none—no other nominations, Mrs. Guillemard, will you please take the Chair.

Madam Chairperson: Our next item of business is the election of a Vice-Chairperson.

Are there any nominations?

Mr. Bob Lagassé (Dawson Trail): Mr. Martin.

Madam Chairperson: Mr. Martin has been nominated.

Are there any other nominations?

Hearing no other nominations, Mr. Martin is elected Vice-Chairperson.

This meeting has been called to consider the hiring process for a new Ombudsman. For your reference, a copy of the applicable legislation for this position has been provided for members of the committee, and I would like to note the following: Section 2 of The Ombudsman Act specifies that, in the case of a vacancy due to the resignation of the Ombudsman, the Standing Committee on Legislative Affairs will meet to consider candidates and make recommendations to the President of the Executive Council within six months after the vacancy date.

In this case, Ms. Charlene Paquin resigned on July 27, 2018, and this standing committee must make a recommendation for the position on or before January 27, 2019.

I would also like to inform the committee that, in the past, when dealing with the hiring of independent officers of the Legislative Assembly, the Standing Committee on Legislative Affairs would strike up a subcommittee to deal with all aspects of the hiring process, including drafting the advertisement, the selection of criteria—or—sorry—the selection criteria, the screening and interviews and would report their recommendations for the position to the main committee.

This involves the subcommittee meeting several times and, once completed with their deliberations, reports their results to the main committee where it will make the final recommendation to the President of the Executive Council.

As well, the committee Clerk and a representative from the Legislative Assembly Human Resource Services office are in attendance at all subcommittee meetings, including conducting the screening of applications and attending interviews of prospective Legislative Assembly independent officers.

How long does the committee wish to sit this morning?

Mr. Martin: Until the business of the committee is resolved.

Madam Chairperson: Is this agreed by the committee? *[Agreed]*

How does the committee wish to proceed with the matter before us?

Hon. Colleen Mayer (Minister of Crown Services): I would suggest we—if there's any discussions, we have those discussions and proceed from there.

Madam Chairperson: Is that agreed by the committee? *[Agreed]*

Do we want to move a motion on how to proceed with this particular hiring process?

Mrs. Mayer: I have a motion. Thank you.

I—pardon me—I move,

THAT a subcommittee of the Standing Committee on Legislative Affairs be struck to manage the process of hiring a new Ombudsman for the Province of Manitoba under the terms and conditions as follows:

(a) the subcommittee consists of four government members, two official opposition members and one second opposition party member;

(b) the subcommittee have the authority to call their own meetings, the ability to meet in camera and to be able to undertake duties it deems necessary in order to fill its responsibilities in the hiring process;

(c) the subcommittee must report back to the Standing Committee on Legislative Affairs with a recommendation that has been agreed to by all members; and

(d) that the Committees Branch staff as well as the Legislative Assembly Human Resource Services staff be authorized to attend all meetings of the subcommittee.

Motion presented.

Madam Chairperson: The motion is in order.

The floor is open for questions.

Mr. Andrew Swan (Minto): Well, I think one thing we just—we should discuss is what process we think that the subcommittee should follow.

And I know we've had a past practice, although not always used, to have the subcommittee work with, I think, what we've called a blue-ribbon panel, where we get someone from perhaps the Civil Service Commission—we've used retired people that have worked in the civil service to assist with that—to be the ones to give recommendations on what the advertisement should look like, because we're going to want to make sure that the advertisement attracts the best and the brightest people for the position.

And then that committee takes on—or that panel, if we can call it that, takes on a lot of the responsibility for receiving the applications, sorting them according to criteria, making some recommendations to the subcommittee as to how many people should be interviewed and then give their recommendations, based on that, to the subcommittee for discussion.

So I guess right now I'd just—I'd like to see, is that a process that members are agreeable to following for what I think we all agree is an important position?

Mrs. Mayer: Thank you for that suggestion.

I have some questions in regards to how long you think that process—when we start looking at bringing in these other—how long does that process take? You know, the significance of this position and the fact that we need someone to step into this role—how—what does that process look like?

Secondly, who would make that decision? How does that—these expert people—that's also taking a lot of time and that as well. You know, would we find consensus on who the best—are deemed the best people.

So those are my concerns, going that route. I think that it's—I think that we are capable. Like, we have, in other avenues, gone down the road of the LA Committee or the—creating or picking the subcommittee members, and that's why I would stick with that suggestion.

Hon. Jon Gerrard (River Heights): Yes, it would seem to me that the subcommittee would need some latitude in terms of defining the process that it undertakes. But it certainly would be smart to have some recommendations or some thoughts on the table that would be shared with the subcommittee.

The other thing that I wonder about and I would bring up is done, usefully, from time to time, is what about an exit interview for the current Ombudsman? In—because, you know, there may be some significant ideas that could come forward, in terms of—about the position and suggestions that she might have in terms of proceeding forward.

Mr. Swan: I mean I know we do have folks that have a pretty good institutional history, if I can call it that, of using that process. And I think it is—it's fair comment to say we don't want this to be delayed unreasonably. I know we do have an acting Ombudsman who's filling the role.

I—the experience in the past has been that having that panel struck doesn't slow things down. And frankly, sometimes, when you consider how difficult it is to pull MLAs together, it may actually reduce some of the bottlenecks in terms of getting approval for the next step.

And what I would suggest is perhaps someone currently with the Civil Service Commission who would be appointed—I'm sure we could have a discussion, or the subcommittee could have that discussion—and then, perhaps, too, retired civil servants that would be acceptable, people that have served different administrations in the past that would have experience and have some expertise, both on the human resources side but also on the important role that the Ombudsman fills.

* (11:10)

So I don't think that would create a delay, as long as we're able to agree on who would fulfill those roles. I've got no issue with the suggestion that we try to have an exit interview. I think we've discussed that in the past with various roles. It's not that often that the person who's leaving the position is easily accessible, but it sounds like we have that in this case.

Madam Chairperson: Before I recognize anyone else, I do want to point out that within the motion that we are considering at this time, in the section labelled (b), it does stipulate that the subcommittee will be able to undertake the duties it deems necessary in order to fill its responsibility in the hiring process, including discussions on what kind of panelling process, whether it's blue—sorry, what's the terminology? Blue ribbon or otherwise.

So this discussion could happen at the subcommittee level and be decided at that level. Is—I

just want to point that out as helpful information for this discussion.

In addition to that, if there are any questions for the HR, we—this committee can agree to have our HR representative, Deanna Wilson, come join us at the table if that is helpful for this discussion.

Mr. Swan: I think it would be helpful to have Ms. Wilson join us for the conversation.

Madam Chairperson: Ms. Wilson, would you please join us—oh, is this agreed by the committee? *[Agreed]*

Ms. Wilson, please join us.

Mr. Swan: I'm just wondering, for the information of the committee, if Ms. Wilson could walk us through what happened when we did have the blue-ribbon panel assisting the work of the subcommittee. Obviously, the minister has mentioned some concerns. Will it take longer? Will there be delays?

I'm just wondering if you can walk us through how that practice would generally work in the past when used to hire an independent officer. *[interjection]*

Madam Chairperson: Ms. Wilson.

Ms. Deanna Wilson (Director, Legislative Assembly Human Resource Services): Sorry.

I looked at the recruitment for the last five independent officer positions that we've recruited for, and in three of those instances we used an expert advisory panel. The most recent one, they did not use an expert advisory panel. It was determined that the subcommittee would be able to go through the process as a group.

The expert advisory panels that we have appointed in the past—I may be wrong, but my understanding is that each represented party had put forward names for consideration for the expert advisory panel. Once the expert advisory panel is appointed, as long as they are available, we can move the process forward fairly quickly.

We have had in the past where we've had to have a panel member replaced because their schedule just wasn't allowing for any meetings or anything like that. So whether it's faster or slower, I couldn't tell you. We've been able to move the process forward in both situations.

The one consideration with the expert advisory panel that I have seen in the past is, you know, the

expert advisory panel has gone through that whole entire process and put forward a recommendation, so you'd want to be confident that you're going to be confident in their recommendation so that the process doesn't have to be repeated or anything, especially with the tighter time frames that we work within now.

And in the past, we have had—we've had the CEO of the Law Society; we had a treaty commissioner; we've had a chair from Manitoba Liquor & Lotteries; we've had a retired deputy minister; the Civil Service commissioner; and the president of the U of M as our various expert advisory panel members.

Ms. Nahanni Fontaine (St. Johns): And typically, how many experts are there? Like, is it two or three? Has that varied? And what's been the gendered composition of that as well?

Ms. Wilson: There's been three on the expert advisory panels that we've had. For the Ombudsman one, there was two males, one female. On the children's advocate, two males, one female, and same with the Chief Electoral Officer, two males, one female. They were—sorry. They were run in conjunction with each other, so the same expert advisory panel was appointed for both the children's advocate and the Chief Electoral Officer.

Ms. Fontaine: And out of the recommendations that had come forward to the subcommittee, were all of the recommendations adopted, then, for each of the candidates that were proposed and moved forward?

Ms. Wilson: I'm just not sure, in regards to the in camera aspect of things, if I can answer that. Okay, I can't answer that.

Mr. Gerrard: Yes, with or without the expert advisory panel, there needs to be, in my experience, some screening because there can be large numbers of applications. Can you take us through, if there was not an expert advisory panel to do that, how that would be done?

Ms. Wilson: Certainly. The screening process, again, can differ from competition to competition depending on the will of the subcommittee and/or the expert advisory panel, I guess. Essentially, we do receive a fair number of applicants for these positions.

At times, I've been tasked, as the director of HR, with the pre-screening of those résumés to ensure that only candidates who meet—let's choose a specific

criteria such as senior management experience or education or something like that—are screened in and that candidates who just don't qualify aren't put forward before the subcommittee.

And then I've been asked in the past to just screen out those who automatically miss that one criteria. I've been asked in the past to present a list of three people that I feel are the best qualified. The subcommittee has, in the past, as a group, paper-screened, I believe.

Yes, so it's been—it can be done any manner of ways as long as it's fair and consistent along the way.

Mr. Gerrard: And in the past, there have been occasions where the subcommittee has done individual interviews with the last two or three candidates. Is that correct? Yes?

Ms. Wilson: Yes, it is correct. If—although, if an expert advisory panel had been appointed, my understanding is that the candidates were interviewed by the expert advisory panel and put forward in a list of priority to the subcommittee.

Mr. Swan: Based on that, I'm prepared to make a motion. I move that the motion—

Madam Chairperson: We already have a motion—it would have to be an amendment to the existing motion that we are considering at this time.

Mr. Swan: That's exactly what this is.

I move

THAT the motion be amended by adding the following subparagraph after subparagraph (a)—so we'll call it (a.1)—

(a.1) the subcommittee appoint an expert advisory panel to advise on and conduct the hiring process, including but not limited to advertising, developing criteria, reviewing applications and screening, conducting interviews and making recommendations to the subcommittee.

Motion presented.

Madam Chairperson: The amendment is in order.

The floor is now open for questions.

Mrs. Mayer: You know, I think the motion that I had put forward does encompass that, and it allows us to draw from that expertise from the HR department and allows us to bring that in. And I think this is simply stipulating and setting up the

subcommittee, and we can have those discussions on what kind of people we would like to bring in at that point. I think the motion clearly states, clause—I'm sorry, I don't have it in front of me—(b) takes that into effect, and I think we're covered off on that aspect.

* (11:20)

Mr. Swan: Well, the purpose is, effectively, at this stage, while we're sitting as the committee as a whole, to say that there will be an advisory—an expert advisory panel struck. I mean, if there's a problem with that with government members then I guess they should just say so.

The subcommittee will still have the ability to decide who's going to be on that panel, and then we'll still receive recommendations from that panel, but I don't know what the opposition would be to moving ahead.

If there's a problem with the wording, I think we can take a few minutes and straighten that out. This would seem to be the reasonable way to go to get the very best person for this important position.

Of course, if we simply leave it to the subcommittee, the subcommittee can call its own meetings and can meet in camera where there isn't necessarily the same kind of scrutiny. I think, as the official opposition, we want it to be said: we think that an expert advisory panel is the best way to make sure that we get the widest range of suitable candidates, to make sure those candidates are screened in a way that reflects the importance of the position and reflects solid human resource principles, yet still gives the subcommittee the right to make the ultimate decision after the expert advisory panel has done its work and made its recommendation.

So I don't see it as hindering the work of the committee. I see it as enhancing what the committee's doing, and I'm not sure what the objection would be to just settling that out a little bit in more detail this morning.

Madam Chairperson: Is the committee ready for question?

An Honourable Member: Question.

Madam Chairperson: Shall the amendment pass?

Some Honourable Members: Agreed.

Some Honourable Members: No.

Madam Chairperson: I hear a no.

Voice Vote

Madam Chairperson: All those in favour of the amendment, say aye.

Some Honourable Members: Aye.

Madam Chairperson: All those opposed to the amendment, say nay.

Some Honourable Members: Nay.

Madam Chairperson: In my opinion, the Nays have it.

The amendment is accordingly defeated.

* * *

Madam Chairperson: We are now back to the main motion.

Are we ready for the question?

Some Honourable Members: Question.

Madam Chairperson: Shall the motion pass?

Some Honourable Members: Pass.

Madam Chairperson: The motion is accordingly passed.

I believe this concludes the work of this committee.

The hour being 11:24 a.m., what is the will of the committee?

An Honourable Member: Rise.

An Honourable Member: Committee rise.

Madam Chairperson: Committee rise.

COMMITTEE ROSE AT: 11:24 a.m.

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<http://www.gov.mb.ca/legislature/hansard/hansard.html>