

MODERNIZING THE HOUSE:
MOVING TOWARDS
A MORE EFFICIENT AND INCLUSIVE
ASSEMBLY



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Foreword

Fellow Islanders,

I believe in strengthening and modernizing our democratic institutions.

I have asked the Standing Committee on Rules, Regulations, Private Bills and Privileges to conduct a full, open and transparent review of the *Rules of the Legislative Assembly of Prince Edward Island*.

My team has developed a discussion paper which outlines several ideas to begin a conversation with all Islanders. These ideas are starting points for a true public conversation, one that must be shaped by public will. I will not endorsing any particular idea; while I am of the strong belief that our Legislature must be modernized, it is for Islanders to decide moving forward.

Our unique size gives us the flexibility to shape our own destiny. Working together with all Islanders, we can ensure the strength of our modern Legislature as a more open and accessible House of the people.

I encourage all Islanders to take time to think about what positive changes you would like to see brought to politics and participate in the conversation.

Sincerely,



Hon. James Aylward

Leader, Official Opposition

Introduction

Recently there has been increasing public debate and interest regarding desired changes to the rules and proceedings of the Legislative Assembly. There is a perceived need to modernize the operation of the Legislative Assembly and make positive changes to make the House more efficient and inclusive.

Historical Context

Aside from routine housekeeping matters the rules and operations of the Legislature were largely unchanged for many years prior to the mid-1990's when the government of Premier Catherine Callbeck first established a Hansard office to create and publish permanent records of legislative proceedings.

The government of Premier Pat Binns first introduced cameras into the legislature chamber back in the late-1990s, televising and live streaming House proceedings. The Binns government was also the first Island government to change the Rules of the Legislative Assembly of Prince Edward Island to ensure a mandatory two sittings each calendar year.

More recently in 2016 Georgetown-St. Peters MLA Steven Myers requested a rule change that would allow audio recordings of Standing Committee meetings to be made publicly available to improve transparency and accessibility, particularly for Islanders with visual impairments or barriers of literacy or geography. This change was implemented and upon further request from Borden-Kinkora MLA Jamie Fox proceedings of Standing Committee meetings are also now live streamed online.

Also in 2016 the Standing Committee on Rules, Regulations, Private Bills and Privileges acted on a request from Borden-Kinkora MLA Jamie Fox and recommended a rule change to ensure all Speakers of the Assembly refrain from taking part in all partisan activity, including caucus meeting attendance, for sixty days prior to a house sitting and for thirty days afterwards. This change helped clarify and strengthen the independence of the Speaker.

In 2017 Morell-Mermaid MLA Sidney MacEwen requested that the Standing Committee on Rules, Regulations, Private Bills and Privileges adjust the rules to increase accountability with respect to Written Questions. MacEwen suggested a response period of forty-five days or an explanation why the question could not be answered within that time. Currently, the *Rules of the Legislative Assembly of Prince Edward Island* do not provide for a definite period that written questions must be answered in. Consequently, there is a significant volume of unanswered Written Questions on the Order Paper, some dating as far back as three years.

Instead, the Committee recommended a limit of fifteen Written Questions per MLA per legislative session in the Committee's report to the Legislature in the spring of 2017. This report was tabled but never voted on, so any reforms to written questions remain outstanding.

Finally, this fall government introduced a motion calling for the elimination of evening sittings. This motion has not yet been debated, but would seemingly signal a willingness to advance the conversation on modernizing the House.

Call to Action

A full review of the Rules of the Legislative Assembly of Prince Edward Island

Hon. James Aylward, on behalf of his entire Progressive Conservative team, has written a formal request to the Standing Committee on Rules, Regulations, Private Bills and Privilege to undertake a full review of the *Rules of the Legislative Assembly of Prince Edward Island*. The Committee is being asked to collect meaningful public input and provide recommendations for potentially extensive changes to make the Assembly more efficient, progressive, and productive.

Ideas for Modernizing the House

There has been much work done by various community groups, including the Coalition for Women in Government, around possible reforms to encourage greater participation from Island women and other underrepresented groups. These suggestions, including possible changes to the schedule of when the House sits, should be given full consideration.

Changes for the Legislative Assembly

Structure of Sittings

1. That the Legislative Assembly adopts the practice of having a fixed timetable of sittings and adjournments for a full calendar year.
 - Ontario, New Brunswick, British Columbia and Saskatchewan are all provinces which have preset calendars. Quebec utilizes two preset sitting periods, with full constituency weeks that occur inside the periods, the timing of which are negotiated between the parties.
 - Federal deliberation on House of Commons calendar: Under Standing Order 28(2)(b), the Speaker must table the House calendar for the upcoming year by September 30 of each year, following discussions with the House Leaders. The Committee considers the early preparation of the House calendar to be beneficial to both the work and family life of members, as it allowed them to plan ahead earlier.

The federal Standing Committee on Procedure and House Affairs recently recommended that the Speaker table the House calendar each year prior to the House's summer adjournment.

2. That the Legislative Assembly increase to three sitting periods per calendar year.
 - Possibility of a portion of the sitting calendar be utilized for specific business of the House (budget estimates, open sessions with Ministers, Committee of the Whole House to study proposed legislation prior to first reading, etc).
 - Flexibility to consider any changes to sitting hours or schedule.
 - Federal deliberation on eliminating a sitting day/compressing the sitting week:

The Committee heard numerous viewpoints regarding the prospect of eliminating the House's Friday sittings. Some were in favour of the proposal

provided the rest of the sitting week could be extended in order to accomplish the parliamentary business conducted on Friday. Others were against eliminating Friday sittings as it would reduce the ability of the opposition to hold the government to account, the extended sittings would encroach on family time in the evenings during the rest of the week, and a reduction in the hours the House sat each year could place seasonal certified indeterminate employees working for the House at risk of losing their status as employees.

Given the lack of consensus the Committee has heard regarding whether the potential benefits of eliminating Friday sittings outweigh the potential drawbacks, the Committee did not propose a recommendation regarding this matter.

Example Yearly Calendar for Legislative Assembly of PEI



Dates on which the House may meet pursuant to the Rules of the Legislative Assembly of Prince Edward Island

Dates on which committees may meet during any Recess or Adjournment

Exhibit 1: Example Yearly Legislative Calendar

Recorded Attendance

3. Attendance of Members being recorded

- Newfoundland has legislated attendance records and monetary fines for members with unexcused absences.

Members' Attendance in the House of Assembly

Section 13 of the House of Assembly Accountability, Integrity and Administration Act requires that a Member (excluding the Premier, the Leader of the Official Opposition and the Leader of a Third Party) attend the House of Assembly when it is sitting, but outlines acceptable reasons for a Member's absence, such as:

- sickness of the Member;
- adoption, pregnancy or parental leave as established by directive;
- a serious illness related to the Member's family;
- bereavement;
- attendance at a meeting of a committee of the House of Assembly, the Management Commission or a committee of the Commission;
- attendance to duties as a Member of a caucus, attendance to constituency business, or attendance to ministerial duties; and
- other circumstances as approved by the Speaker.

By January 31 of each year, a Member is required to file with the Clerk a declaration under oath or affirmation of his or her attendance while the House of Assembly was sitting in the previous year. Dates of any absences and an explanation for those absences must be provided. A deduction in the amount of \$200 is made from the Member's salary for each day the Member was absent from a sitting of the House of Assembly for a reason other than those provided for in the legislation.

The following table provides a summary of the attendance of all Members of the House of Assembly, including those who resigned or were elected during the reporting period January 1 to December 31, 2013. The House of Assembly had 50 sitting days during this period. The Summary of Members' Attendance includes Members who were elected to the 47th General Assembly.

Summary of Members' Attendance for the Period January 1 - December 31, 2013

Member	District	Approved Absences	Other Absences
Dwight Ball	Humber Valley	0	1
Jim Bennett	St. Barbe	2	0
David Brazil	Conception Bay East - Bell Island	2	0
Felix Collins	Placentia - St. Mary's	0	0
Sandy Collins	Terra Nova	0	0
Tony Cornect	Port au Port	2	0
Eli Cross	Bonavista North	0	0

Exhibit 2: Summary Information on Members' Attendance from NL House Assembly

Improving the Legislative Process

4. Ways to be more collaborative in the approach to Legislation
 - At least a certain threshold of member(s) of each party in the Legislature must support proposed bills prior to be voted upon.
 - Independent legal review of tabled legislation can be requested by committees.
 - Establishing a mandatory notice period for all legislation, not just Private Members Bills.
5. More consultation with government at earlier stages in the legislative process
 - Require Government to table motion giving notice prior to tabling any legislation just like all Private Members Bills must do.
 - Investigate possibility of rule around requiring multiple sitting days to elapse prior to start of debate on any monetary bills. This notice would allow all members of the Legislative Assembly necessary time to review the documents in detail.

Improving Direct Democracy

6. E-Petitions
 - Allow petitions to be submitted and contributed to electronically.
 - Establishing a threshold to trigger debate in the House over petition issues.
7. Absentee Voting
 - Federal deliberation on Absentee voting: The Committee studied how procedures in place in other jurisdictions, such as proxy voting and electronic voting, could allow members to be absent from the Chamber, for a restricted set of reasons, but still have their vote counted. Presently, the only way a member of Canada's House of Commons can have his or her vote recorded is for that member to be present in the Chamber, have heard the motion read, and be in his or her assigned seat. The Committee notes that since 1996, New Zealand's House of Representatives has had in place procedures to allow for proxy voting, and that since 2008, Australia's House of Representatives has permitted members who are nursing infants to cast proxy votes.

The Committee has no recommendations to make at this time regarding the implementation of proxy voting or electronic voting; it may revisit this topic in further study.

8. All recorded divisions (standing votes) compiled into a searchable, online index similar to House of Commons

Improving Accountability

9. Establishing Codes of Conduct for all elected members and Legislative Assembly staff
10. Overhaul the process through which the Legislature reviews government spending
 - Ensure all audited crown corporations appear before House or Standing Committee for further oversight on public expenditure
11. Uphold recommendations of Auditor General and have all financial statements (including budget book and audited blue books) uniform in their presentations making it easier to cross-reference.
12. Along with printed copies, have all financial statements released in accessible and unlocked data sets.
13. Additional research support for private members
 - Consideration of a fund with equal per-member access for external research and subject matter expert support
14. Improving Written Questions
 - Enacting a set time period for questions to be answered
15. Increase access to Cabinet Ministers
 - Model an innovative practice from Quebec's Assemblée nationale called the *interpellation*, a weekly event (usually on Friday afternoons) during which one minister is compelled to appear before the Assemblée, in committee of the whole, for a duration of two hours to answer the opposition's questions on a given issue. The duration and structure of the session make it a much more meaningful exchange between the minister and members.

Changes for Standing Committee

The *Rules of the Legislative Assembly of Prince Edward Island* extends beyond the Legislative Chamber to include Standing Committees. These bodies play an exceptionally important role in our democracy. In the process of reviewing our rules, the good work of committees must not be overlooked.

Potential changes to improve legislative committees include:

16. More autonomy for legislative committees
17. Equal membership on each committee across party lines.
18. Elect Chairs of Standing Committees via secret ballot.
19. Investigate technology usage to allow for witnesses to appear remotely.
20. All witnesses appearing before Standing Committee should provide background and briefing materials 48 to 72 hours prior to meeting, when possible.

Changes for Independent Offices of the Assembly

There are independent offices who serve the Legislative Assembly of Prince Edward Island, providing a vital oversight function. These include the Office of the Auditor General, the Officer of the Information and Privacy Commissioner, the Conflict of Interest Commissioner and the Public Interest Disclosure Commissioner.

While these offices are governed by various pieces of legislation, rather than the *Rules of the Legislative Assembly of Prince Edward Island*, there is an opportunity for potential operational and structural reforms to strengthen our democracy.

Potential changes to strengthen these independent Offices include:

21. Budget increase for Office of the Information and Privacy Commissioner.
22. Budget increase for Office of the Auditor General.
23. Physically move the Office of the Auditor General away from government complex.
24. Determine cost and feasibility of moving Legislative Assembly onto a separate, dedicated computer network.

A True Public Conversation

The Standing Committee on Rules, Regulations, Private Bills and Privileges is the required platform to consider and amend the rules for the operation of the Legislature but a true public conversation is required to effect the changes needed to make the Legislature as efficient, inclusive and effective as possible. Additionally, independent officers of the Legislative Assembly and current and former elected officials and legislative staff should be invited to share their views, experiences and suggestions. Most importantly, any changes to how the Legislature is structured must be guided by a true public conversation where all Islanders have a voice.

Conclusion

There is a real opportunity to modernize and improve our Legislative Assembly and strengthen our democracy. The suggestions in this document are meant to be a starting point to more discussion and input from Islanders to improve the effectiveness and inclusiveness of the Legislative Assembly.