



ISSN 1710-9477

**Legislative Assembly
of Ontario**

First Session, 38th Parliament

**Assemblée législative
de l'Ontario**

Première session, 38^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 12 April 2005

**Journal
des débats
(Hansard)**

Mardi 12 avril 2005

**Standing committee on
social policy**

Accessibility for Ontarians with
Disabilities Act, 2005

**Comité permanent de
la politique sociale**

Loi de 2005 sur l'accessibilité
pour les personnes handicapées
de l'Ontario

Chair: Mario G. Racco
Clerk: Anne Stokes

Président : Mario G. Racco
Greffière : Anne Stokes

Hansard on the Internet

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. The address is:

<http://www.ontla.on.ca/>

Index inquiries

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-3708.

Copies of Hansard

Information regarding purchase of copies of Hansard may be obtained from Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

Le Journal des débats sur Internet

L'adresse pour faire paraître sur votre ordinateur personnel le Journal et d'autres documents de l'Assemblée législative en quelques heures seulement après la séance est :

Renseignements sur l'index

Adressez vos questions portant sur des numéros précédents du Journal des débats au personnel de l'index, qui vous fourniront des références aux pages dans l'index cumulatif, en composant le 416-325-7410 ou le 325-3708.

Exemplaires du Journal

Pour des exemplaires, veuillez prendre contact avec Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311, ou sans frais : 1-800-668-9938.

Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
SOCIAL POLICY**

**COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE**

Tuesday 12 April 2005

Mardi 12 avril 2005

The committee met at 1525 in committee room 151.

**ACCESSIBILITY FOR ONTARIANS WITH
DISABILITIES ACT, 2005**

**LOI DE 2005 SUR L'ACCESSIBILITÉ
POUR LES PERSONNES HANDICAPÉES
DE L'ONTARIO**

Consideration of Bill 118, An Act respecting the development, implementation and enforcement of standards relating to accessibility with respect to goods, services, facilities, employment, accommodation, buildings and all other things specified in the Act for persons with disabilities / Projet de loi 118, Loi traitant de l'élaboration, de la mise en oeuvre et de l'application de normes concernant l'accessibilité pour les personnes handicapées en ce qui concerne les biens, les services, les installations, l'emploi, le logement, les bâtiments et toutes les autres choses qu'elle précise.

The Chair (Mr. Mario G. Racco): Good afternoon and welcome to the meeting of the standing committee on social policy in consideration of Bill 118, the Accessibility for Ontarians with Disabilities Act, 2005. Once again, I would like to point out several features that we hope will improve accessibility for those who are participating in and attending meetings regarding Bill 118.

In addition to our French-language interpretation, we will be providing at each of our meetings closed captioning, sign-language interpreters and two support services attendants available to provide assistance to anyone who wishes it. They are in the back.

Please identify yourself for the audience. The meeting today will be broadcast on the parliamentary channel, available on cable TV, on Friday, April 15. Also, the Webcast of this meeting will be available on Friday at the same time as the television broadcast on the Legislative Assembly Web site at www.ontla.on.ca.

We will now resume our clause-by-clause consideration of Bill 118. At the last meeting, we had completed consideration of section 29.

Mr. Rosario Marchese (Trinity-Spadina): I would like to add something before you get on to the agenda. I would like to urge people to speak as loudly as they can. I admit a failure of mine: I'm not hearing as well as I would like.

The Chair: Let me do my job, and I'll be happy to refresh everybody's mind before we start.

To continue, I have been advised that the order of consideration of amendments would be improved by considering the motion order. Potentially, before we address 73, we should address 74, 75 and 76. The only issue is that all of them are Mr. Jackson's, so we are going to deal with 73. Therefore, that section doesn't really count any longer.

With the committee's agreement, we'll move to start the meeting on page 73. As a reminder, whenever anyone speaks—both the members and whoever—if you could keep in mind that the louder you speak, the better we can hear. I thank you for reminding me of that.

Mr. Marchese: Mr. Chair, given that Mr. Jackson is here, we might want to revert to the order that is a bit more appropriate to the proceedings.

The Chair: That's fine. Since Mr. Jackson is here, we're going to address pages 74, 75 and 76 before we go back to page 73. Therefore, whenever you're ready, Mr. Jackson, you may want to start with page 74, which is section 29.9.

Mr. Cameron Jackson (Burlington): I think I've renumbered these 29.1, with the assistance of legal counsel.

I move that the bill be amended by adding the following section:

“Municipal goods and services

“29.1 In deciding to purchase goods or services through the procurement process for the use of itself, its employees or the public, the council of every municipality shall have regard to the accessibility for persons with disabilities to the goods or services.”

It's self-explanatory, Mr. Chairman.

The Chair: Any comments on the motion?

Mr. Jeff Leal (Peterborough): Just a comment. I understand the spirit—where it's coming from—from Mr. Jackson, but it's interesting. For the last decade at least in Ontario, purchasing managers and people who acquire goods and services for municipalities across the province of Ontario have attended professional conferences and seminars. As a standard of doing their job, when they acquire goods and services, or indeed when they're making recommendations to their respective councils to acquire goods and services through the tendering process, one of the things they're doing these days is making sure that any good or service they apply is accessible for all members of the community.

1530

As I said, I understand where this comes from, but I see it as a bit redundant in terms of what is actually going on in municipalities today. It's not the old days where the province has to be a benevolent dictator toward the municipalities in Ontario. Municipalities are maturing at a very rapid pace in the province, and many of them, providing full accessibility for members of their community, have proactive purchasing policies that they've been following for at least a decade.

Mr. Marchese: It's fair to say that some municipalities do it and do it without needing to be encouraged by the province, and some cities or municipalities do it better than others. There's no doubt about it. It is also fair to say that sometimes they need a nudge, and if it is true that it is within the law, they would be better encouraged to do the right thing in the event that they're not.

Mr. Jackson: The best example I can give is the acquisition of new buses. I was unsuccessful at the cabinet table to get a ruling that all future buses would be low-floor and accessible in the province. We know the Americans are dumping them at cheap prices here because they have the ADA. There are municipalities that would rather buy the cheaper bus and make it an impediment than to buy the low-floor. I come from the city of Burlington where they bought all low-floor, and I'm very proud of that. This is the kind of thing.

My second amendment, if this one is defeated, basically prescribes that it must occur. So I'm at least giving AMO a motion that it likes, which is saying that it have regard to. If it fails, I'm going to tighten it up and allow Mr. Leal the opportunity to put in legislation which he believes to be the norm.

Mr. Marchese: Quickly again, there is a cost to doing the right thing, and municipalities will complain: "Show us the money or give us the money so that we can do the right thing." It is true that in the last government they didn't get the support to be able to do the right thing. However, this is a proper motion. If cities are going to do the right thing, they need help, provincial government help, to be able to do it. I think it's the right thing to do.

The Chair: Any further debate? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

Mr. Jackson, page 75.

Mr. Jackson: Given that the voluntary process isn't going to work, let's look at a mandatory one.

I move that section 29.1 of the bill be amended by adding the following sections:

"Municipal goods and services

"29.1(1) With respect to goods or services purchased for its own use or for the use of its employees or of the public, the council of a municipality shall only purchase,

"(a) goods and services that meet the prescribed standards, if standards have been prescribed with respect to those goods or services; or

"(b) if no standards have been prescribed with respect to the goods or services in question, goods and services that do not create barriers for persons with disabilities and do not promote the continued existence of such barriers.

"Same

"(2) If the council of a municipality cannot, after due diligence, find goods or services that meet the requirements of subsection (1), it may purchase other goods and services but shall ensure that special accommodations are made in respect of such goods and services for persons with disabilities."

I won't speak to it, Mr. Chairman. Clearly, this takes it to the next level, making it the law in the province, as opposed to the best practices model that Mr. Leal referred to.

The Chair: Any further debate on this motion? If there is none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

The next item is page 76, Mr. Jackson. Just like yesterday, Mr. Jackson, could we address them all at once?

Mr. Jackson: I actually believe this more properly numbered 29.1, correct? Since the other 29.1 was not approved.

The Chair: We can then break down after, if you want to, when the vote takes place, OK?

Mr. Jackson: I move that the bill be amended by adding the following part:

"Part VII.1

"Duties of Public Sector Organizations

"Application

"29.1 The duties and obligations imposed on the organizations in this part apply in addition to any duties and obligations imposed on the organizations in the accessibility standards made under this act.

"Conflict

"29.2 If there is a conflict between a provision in this part and a provision in an accessibility standard, the provision in this part prevails.

"Public transportation organizations

"29.3(1) Every year, every public transportation organization shall,

“(a) prepare an accessibility plan; and

“(b) consult with persons with disabilities and others in preparing the plan.

“Contents

“(2) The accessibility plan shall address the identification, removal and prevention of barriers to persons with disabilities in the organization’s bylaws, if any, and in its policies, programs, practices and services and set out a timetable for the removal of those barriers.

“Same

“(3) The accessibility plan shall include,

“(a) a report on the measures the organization has taken to identify, remove and prevent barriers to persons with disabilities;

“(b) the measures in place to ensure that the organization assesses its proposals for bylaws, policies, programs, practices and services to determine their effect on accessibility for persons with disabilities;

“(c) a list of the bylaws, policies, programs, practices and services that the organization will review in the coming year in order to identify barriers to persons with disabilities;

“(d) the measures that the organization intends to take in the coming year to identify, remove and prevent barriers to persons with disabilities; and

“(e) all other information that the regulations prescribe for the purpose of the plan.

“Availability to the public

“(4) A public transportation organization shall make its accessibility plan available to the public.

“Definition

“(5) In this section,

“‘public transportation organization’ means a person or entity that provides any service for which a fare is charged for transporting the public by vehicles operated,

“(a) by, for or on behalf of the government of Ontario, a municipality, a local board of a municipality or a transit or transportation commission or authority,

“(b) under an agreement between the government of Ontario and a person, firm, corporation, or transit or transportation commission or authority,

“(c) under an agreement between a municipality and a person, firm, corporation, or transit or transportation commission or authority, or

“(d) under a licence issued by the government of Ontario or a municipality to a person, firm, corporation, or transit or transportation commission or authority, and includes special transportation facilities for persons with disabilities, but does not include any person or entity, or class of person or entity, that is specified in the regulations.

“Other public sector organizations

“29.4 (1) Each year, every prescribed public sector organization shall,

“(a) prepare an accessibility plan; and

“(b) consult with persons with disabilities and others in preparing the plan.

“Contents

“(2) The accessibility plan shall address the identification, removal and prevention of barriers to persons with disabilities in the organization’s bylaws, if any, and in its policies, programs, practices and services and set out a timetable for the removal of those barriers.

“Same

“(3) The accessibility plan shall include,

“(a) a report on the measures the organization has taken to identify, remove and prevent barriers to persons with disabilities;

“(b) the measures in place to ensure that the organization assesses its proposals for bylaws, policies, programs, practices and services to determine their effect on accessibility for persons with disabilities;

“(c) a list of the bylaws, policies, programs, practices and services that the organization will review in the coming year in order to identify barriers to persons with disabilities;

“(d) the measures that the organization intends to take in the coming year to identify, remove and prevent barriers to persons with disabilities; and

“(e) all other information that the regulations prescribe for the purpose of the plan.

“Availability to the public

“(4) A prescribed public sector organization shall make its accessibility plan available to the public.”

1540

The Chair: Is there any debate on the motion?

Mr. Marchese: I just want to say to Mr. Jackson how wonderful Bill 125 would have been with all these amendments he’s proposing. If he was the Premier, they would have happened; there’s no doubt about it. Unfortunately, I’m sure there wasn’t enough support. But these are good things.

It would impose a cost on these public sector organizations. The sadness is that the reason the government won’t support this is that there is a cost factor and they won’t be able to impose this on some organizations because they won’t have the money. I suspect they will go very slow and very easy on them, hoping that within 20 years’ time they will either find the time or the money or find a way to do it. It is costly for some, and my hope is that the provincial government will find the money to make this a reality. Otherwise, it will be hard.

Mr. Jackson: I think it’s fair to say that within Bill 125 there was the authority for the Accessibility Advisory Council of Ontario to proceed with codes, practices and guidelines, and that was never allowed to happen under the change in government. The minister’s priorities were to try something new as opposed to making the existing legislation work.

This is set forward for the historical record as well. There’s no question that the government’s plan is not to have an accountability system structured into this bill. This becomes a template upon which the government-controlled accessibility standards development process will determine timelines and exemptions and the degree to which bylaws have to be reviewed in order to seek out and remove barriers. This is laid down for historical

purposes. This is the direction that the Accessibility Advisory Council was following when Bill 125 was passed. These are part of the standards they were developing at the point that the government changed hands and they were told to stop work on this project.

In fairness to the minister, she has identified transportation as an early priority. I think the disability community is going to know within at least two years the degree to which there is a political will to make our transit systems more accessible.

I'm disappointed that this will be defeated. For that reason, we shouldn't talk too much about it.

The Chair: Is there any further debate?

I will now put the question. Shall the motion carry?

Ayes

Craitor, Jackson.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The item does not carry, so there is no need to take a vote on this section.

We go back to item 73. Mr. Marchese, the floor is yours—the same thing, Mr. Marchese, one motion.

Mr. Marchese: I move that the bill be amended by adding the following part:

“Part VII.1

“Accessibility Plans for Employees

“Application

“29.1 This part applies to every employer who employs persons that are members of a trade union.

“Definitions

“29.2 In this part,

“‘bargaining unit’ means a bargaining unit as defined in subsection 1(1) of the Labour Relations Act, 1995; (‘unité de négociation’)

“‘employee’ means an employee as defined in subsection 1(1) of the Labour Relations Act, 1995; (‘employé’)

“‘trade union’ means a trade union as defined in subsection 1(1) of the Labour Relations Act, 1995. (‘syndicat’)

“Employees’ accessibility plans

“29.3(1) Promptly after this section comes into force, an employer shall begin negotiations with the bargaining agent for the employer’s employees for the adoption of an accessibility plan for the workplace.

“Content of accessibility plan

“(2) An accessibility plan shall address the identification, removal and prevention of barriers to persons with disabilities in the workplace, including in the employer’s hiring practices.

“Timing of negotiations

“(3) An employer and a bargaining agent shall negotiate in good faith with a view to adopting an accessibility plan on or before the prescribed date.

“Failure to adopt plan

“(4) If an employer and a bargaining agent fail to adopt an accessibility plan on or before the prescribed date, the minister shall appoint a mediator to help the parties agree to an accessibility plan on or before a prescribed date.

“Failure of mediation

“(5) If, despite the appointment of a mediator, the parties fail to adopt an accessibility plan on or before the prescribed date, either the employer or the bargaining agent may appeal the matter to the tribunal.

“Power of tribunal

“(6) Upon application by an employer or a bargaining agent, the tribunal shall hold a hearing and, after the hearing, may order the parties to adopt an accessibility plan that shall include such provisions, terms and conditions as the tribunal may specify.

“Compliance

“29.4(1) An employer and the employer’s employees, including those employees that are not members of the trade union, shall comply with an accessibility plan adopted under this section.

“Posting of plan

“(2) An employer shall post an accessibility plan adopted under this part in a conspicuous place in the work premises.

“Conflict

“29.5 If a provision in an accessibility plan adopted under this section conflicts with a provision in an accessibility standard established under section 6, the provision in the accessibility standard prevails.”

If I can use a quotation from the OFL to make the argument that they made: “We are urging the government to compel us and employers to begin this process immediately by implementing a parallel process to the Pay Equity Act, 1987, passed by the David Peterson government. This is one key to the success of the legislation. Our amendments would require every union and employer to bargain accessibility plans. These plans would identify barriers in the workplace that deny access to persons with disabilities. The plans would set out measures to remove these barriers on a timely basis. In workplaces where there is no union, the employer would do, and post, the plan. Employees would then have the right to complain if the plan did not cover all concerns. Accessibility plans would have to be adjusted if necessary to meet standards set by the province when these standards are ready.”

Thirty-five per cent, give or take, of workplaces are unionized. That’s a huge sector of the population that has a bargaining agent. What they’re proposing, in my view, is reasonable and would advance the cause of meeting the changes that the government is proposing in this bill. It’s for that reason that I move it and support it.

1550

The Chair: Is there any debate on the motion?

Ms. Kathleen O. Wynne (Don Valley West): I just want to make a statement about why I won’t be supporting this, and that is that our intention is to have consistent standards across any sector. As I read this amendment, it would lead to inconsistent levels of

accessibility, depending on whether there were unionized workers or not. So I won't be supporting this.

The Chair: Any further debate? If there is none, I will now put the question. Shall the motion carry?

Ayes

Craitor, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

We go back to section 30. Mr. Jackson, page 77, please.

Mr. Jackson: I move that subsection 30(1) of the bill be struck out and the following substituted:

“Directors

“30(1) Within a prescribed time after the first accessibility standard is established under section 6, the minister shall appoint one or more directors for the purposes of this act and the regulations.”

That's self-explanatory. There's no time frame set out for the appointment. This is a theme that's been raised by ODAC and others, that there don't seem to be clear and tight timelines with respect to moving this bill forward.

Mr. Marchese: I support the idea of establishing a prescribed time. That part of it is OK. But as both Jackson and I argued, as it related to inspectors, the wording of “one or more directors” is problematic. If the government were to appoint just one, that would solve the problem and they wouldn't necessarily have to hire any others. The way I read it, I think we're going to need more than one director in this case.

I support in the spirit of it. We need to have “within a prescribed time” attached to this, but I'm troubled by the idea of “shall appoint one or more,” based on the arguments he and I made vis-à-vis the hiring of inspectors.

Mr. Jackson: I find a distinct difference with a director, who we had hoped would be an arm's-length individual, to monitor and keep an integrity to the oversight of this process. I'm comfortable that one individual should be held accountable and report to the Legislative Assembly and so on and so forth. I don't think that is the exact same issue, although I understand Mr. Marchese's point. I can't believe that we will try and do this entire act with only one inspector, who is required to do the review and the oversight of activities around this building and all aspects of this bill. Anyway, we'll just proceed. I'm just trying to make sure that it's done in a timely fashion.

The Chair: Is there any further debate? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

Mr. Ramal, page 78.

Mr. Ramal: I move that subsection 30(1) of the bill be amended by striking out “The minister” at the beginning and substituting “The deputy minister.”

The same analogy we applied on appointing the inspectors we applied to the directors.

The Chair: Any further debate? I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? The motion carries.

Page 79, Mr. Ramal.

Mr. Ramal: I move that subsection 30(5) of the bill be amended by striking out “subsections 21(3) and (4)” at the end and substituting “subsections 21(3), (4) and (5).”

Just some technical changes to match the statute with the bill.

The Chair: Is there any debate on the motion?

I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? None. The motion carries.

Therefore, we'll deal with section 30. Shall section 30, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? The section carries.

Mr. Jackson, section 31, pages 80 and 80a.

Mr. Jackson: I move that section 31 of the bill be amended by adding the following subsections:

“Notice of committee to be established

“(1.1) The minister shall publish a notice announcing the establishment of the council in a newspaper of general circulation in the province and shall post the notice on a government Internet site.

“Content of notice

“(1.2) The notice referred to in subsection (1.1) shall,

“(a) explain the function of the council;

“(b) state the number of members that are to be appointed to the council;

“(c) identify the qualifications that a person must have to become a council member;

“(d) invite interested persons to apply to the minister to become a council member; and

“(e) set the date by which applications must be received by the minister in accordance with subsection (1.3).

“Timing of application

“(1.3) All applications to become a member of the council shall be submitted to the minister on the earlier of,

“(a) the day specified by the minister in the notice referred to in subsection (1.1); or

“(b) the day that is 21 days after the day the notice is first published in a newspaper of general circulation in the province.

“Publication of applicants’ names

“(1.4) Within three days of the last day for submission of applications to become a member of the council, the minister shall,

“(a) publish the names of all applicants received in accordance with subsection (1.2) in a newspaper of general circulation in the province and post the list of names on a government Internet site;

“(b) invite members of the public to comment on the qualifications of applicants for appointment to the council within 15 days after the day the list of applicants is first published and posted in accordance with clause (a).

“Selection of members

“(1.5) Within 15 days after the last day of the period for public comment referred to in clause (1.4)(b), the minister, having considered the comments received, shall select the members of the council and provide each applicant with the decision to grant or refuse the application and the reasons therefor.

“Publication of appointment

“(1.6) The minister shall publish the names of the appointees to the council in a newspaper of general circulation in the province and shall post the list of names on a government Internet site.

“Term of appointment

“(1.7) The members of the council shall be appointed for a period of five years.”

Very briefly, this is exactly what the ODA Committee has asked for. We heard it in just about every community that this committee visited. They would like to ensure that there is no politics with the appointments and that they are just the very best people available in our province. This is an important committee, or we hope it will evolve to being an important committee, and therefore the membership is one that ODAC wishes to not only take seriously but to participate in.

The Chair: Is there any further debate?

Mr. Marchese: Just quickly, I think this kind of motion helps to educate, to inform the public. As a result, it gives greater access to the public about what is going on with respect to the council, it gives greater accountability and it gives greater transparency—all the things that Liberals love to speak about in the Legislature.

The Chair: Any further debate? I’ll now put the question. Shall the motion carry?

Ayes

Jackson, Leal, Marchese.

Nays

Craitor, Fonseca, Ramal, Wynne.

The Chair: The motion does not carry.

Mr. Marchese, page 81.

Mr. Marchese: Subsection 31(4) of the bill.

1600

The Chair: One moment, please. There is another one on the same section, so if you don’t mind, Mr. Marchese, I’ll go back to Mr. Jackson.

Mr. Jackson: I apologize.

The Chair: Please provide a copy to all the members.

Mr. Jackson: I don’t have staff here making notes for me, so if I don’t do it, it isn’t going to get done. Hansard, unfortunately, is backed up quite badly because of the activities going on.

Mr. Marchese: I hear you.

Mr. Jackson: I’m writing as fast as I can.

The Chair: I hear you’re well trained in that, Mr. Marchese.

Mr. Jackson?

Mr. Jackson: I move that subsection 31(3) of the bill be struck out and the following substituted:

“Compensation

“(3) The members of the council shall be compensated for their work on the committee and reimbursed for expenses in relation to that work in an amount to be determined by the Lieutenant Governor in Council.”

The issue is that it shouldn’t be “may,” as it is in this legislation that the Liberals have drafted. Both the previous legislation and this amendment say that these people “shall be compensated for their work,” and reimbursed for their expenses. That would be an amount determined by the Lieutenant Government in Council. You’ve heard from me ad nauseam that the more opportunities a minister gets to take something before cabinet and Management Board for approval, the stronger it is.

I just don’t want to see a situation where we are getting the disabled community to work for free on an important committee, yet we just have to open a newspaper and read about all those people of wealth and power who are appointed to do additional work for the government. I wouldn’t feel comfortable if there was an opportunity here to simply say, “If you can afford to come and volunteer, we’re interested in having you.” So “may” should give way to “shall,” and it should be an amount determined by cabinet to show their support across all ministries to the new minister responsible for this legislation.

Mr. Marchese: My interpretation of “may” is that it won’t happen. That’s usually why you’ve got “may”; otherwise, you would have had “shall.” If you have “shall,” it means it would happen; if you have “may,” it means it won’t. It’s as simple as that.

Liberal members will argue, “Oh, no, that’s not what it means. It means that we can.” My suggestion to you is that you won’t. You’ll take cover under the problem of the deficit that the Tories left you, and you won’t be able

to recover all those tax dollars that the Tories cut, so we're stuck. A whole lot of people who voluntarily become members of these committees, providing valuable advice, do so on their own time. Many are seriously underpaid and many suffering in poverty, but they would find the time to volunteer to make this bill a good one. Not to acknowledge it in a way by saying, "We will compensate," is really very sad, disappointing and depressing.

I think we've got to change the language. I really do believe they need to be compensated. I'm not the only one saying it, nor is Mr. Jackson. Many people who came before this committee and deputed before us said they ought to be given some remuneration.

Anything will help. I'm sure they're not asking for a lot. Anything they receive, based on the Ontario disability plan, is little. They survive on very little. Many of them are poor. This is the least you could do.

The Chair: Mr. Leal, you had a question?

Mr. Leal: I have two questions. I just want to check something with Mr. Jackson.

Mr. Jackson, in your Bill 125, was it "shall" or "may" in terms of compensating people who were going to serve?

Mr. Jackson: It was "shall," and I actually signed the cabinet order setting out the salary for the chair, the vice-chair and the members of the council. That ministerial order has been changed subsequently and the compensation has been devalued, but that's the right of the minister. That's why I don't want the minister playing with it, as has happened. What I'm asking is that the Lieutenant Governor in Council set the salary.

Mr. Leal: Can I continue?

The Chair: Yes, Mr. Leal, you still have the floor.

Mr. Leal: I have Bill 125 here and it says, "The minister may pay the members of the council the remuneration and the reimbursement for expenses that the Lieutenant Governor...." Subsequent to this bill, was there an amendment you made?

Mr. Jackson: No. When I tabled the bill with cabinet, I approved, in the cabinet minute, the compensation levels and that it was mandatory, so I made sure they were protected before the bill went out the door. That's "cabinet minute."

Mr. Leal: Cabinet minute? OK.

I have a question that maybe the acting ADM could help me with.

The Chair: Could staff take a seat, please, at the front. To avoid that our member Mr. Marchese can't hear, could you please get the microphone as close as possible.

Mr. Leal: My question will be quick. I'm sensitive to people who are on ODSP and the threshold levels of earnings and clawbacks. Within the ministry—it may be a bit of a difficulty—have you generally discussed in terms of, if compensation is going to be provided to people serving on the committee, there would be an exception so that it wouldn't be clawed back for people who are on ODSP or OW?

Ms. Katherine Hewson: There have been some discussions regarding that. The rule, as I understand it, under the ODSP program is that honoraria under \$5,000 are not clawed back.

Mr. Leal: Thanks.

The Chair: Any further debate on the motion? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry. Mr. Marchese, page 81, please.

Mr. Marchese: Subsection 31(4) of the bill: I move that subsection 31(4) of the bill be amended by striking out "At the direction of the minister" at the beginning.

You will recall my arguments against this language in other areas. I continue to argue against this language. "At the direction of the minister" means that it may or may not happen. The minister may direct them to do certain things or may not, or may just direct them to do certain things and not others. It's just the way it is. New Democrats don't believe, Marchese doesn't believe, that the Accessibility Standards Advisory Council should be limited or should wait as to what it ought to do. They ought to be able to advise the minister on all matters within its mandate and not simply those the minister directs the council to do. This is quite simple and quite obvious in my mind. I'm sure I have the support of all the people with disabilities on this. I'm waiting anxiously to hear the arguments from the Liberal members as they argue against it.

The Chair: Any further debate on the motion? I will now put the question. Shall the motion carry?

Ayes

Craitor, Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

Page 82, Mr. Jackson: I understand it is identical, so we will just remove it and I'll go back to Mr. Marchese on page 83.

Mr. Marchese: I move that section 31 of the bill be amended by adding the following subsection:

"Public consultation

"(6) The council shall determine the need for and hold whatever form of public consultation it requires to carry out the duties assigned under subsection (4)."

This is a very straightforward addition. The council ought to be able to have the power to hold public meet-

ings in areas where they think they ought to have public meetings.

1610

It seems to me odd that the Liberal members of this committee could either argue against it or defeat it. This would not unduly hold this bill back. I'm reminding you that you've got 20 years to be able to do this right. If you allow the council to hold some of these meetings, whatever they think they ought to have meetings on—on whatever issue they feel is important—it will not slow down their work one iota. If you want to empower the council to do its job right, it would seem to me bizarre that you would fight against this motion. Not to empower it is to disempower it. Not to empower it in the way that I'm suggesting is to limit its power. Not to empower it is to say to the council, "We don't trust the work you're going to do." It's to say to them, "We're afraid of what you're going to do."

I anxiously await an answer from the Liberal members, because I am convinced that they, as the great supporters of access, accountability, transparency and public participation, will no doubt be looking for an opportunity to support this amendment. Let's wait and see.

The Chair: Is there any further debate?

Ms. Wynne: Yes. As an advocate for consultation, we actually do have an amendment, Mr. Marchese, that we will introduce, which, consistent with the rest of the bill, would read, "At the direction of the minister, the council shall hold public consultations in relation to the matters referred to in subsection (4)." So we'll be accomplishing that consultation piece, transparency and accountability.

Mr. Marchese: The problem I have with the motion they are going to propose is that it says, "at the direction of the minister." Sorry; that is consistently wrong, in my view. It's consistent with the position they've taken, but consistently wrong in terms of its approach. We shouldn't have to wait for the minister to have those meetings. It's really not smart. I was about to say it's dumb, but it's really not smart.

Why should the council have to wait for the minister to say, "OK, you can have this meeting now on this particular issue"? It's really dumb, right? It's not treating that council as an independent body. It's treating it as a body that has to exist at the will of the minister. Doesn't it sound like dumb politics to you? Or if that's too offensive, doesn't it sound like it's not smart? Wouldn't you want to empower it in some way to make them feel you trust them and that you really want them to do the job? The position that you're about to put, after you defeat this, is inconsistently wrong. It doesn't suit you well, as Liberals, to be arguing against public consultation, transparency and accountability. It looks bad on you. I just want to tell you that, for the record.

Ms. Wynne: I just need to say that, indeed, this group exists to advise the minister. It exists at the will of the minister. What is laudable about this is that the minister will have this group to advise on these issues, and that group will be empowered to do consultation. That's the amendment that we're introducing.

Mr. Jackson: My only problem with this is that, historically, these are usually mechanisms when ministers find themselves in a difficult position, and the known instrument around government circles—and every government is guilty of this—is, "Instead of proceeding with the changes to remove barriers in that particular sector or group of persons, I really don't want to, as minister, come out and say, 'This whole group is exempt.'" It's very tricky, politically, to do that. The fact that the minister has put herself in that position in her legislation is awkward.

But the net effect of that is that if a group comes to a minister behind closed doors and says, "We really can't do this right now. Our industry is suffering," for whatever reasons—the best example I can come up with is the one where, I guess it was a week ago, we had the controversy of someone who had a private airing with cabinet, and then all of a sudden, after he leaves, the legislation and the tracking of the legislation is all changed. It's gone out to public consultation, with amendments right off the bat.

It is a known mechanism, if you want to slow down something, that the minister can decide, for political reasons, to do consultation. This is where I'm leaning more on the side of what Mr. Marchese is saying, because the council shouldn't necessarily define itself solely as "at the direction of the minister." It should be self-perpetuating and advising the minister as an advocate for the disability community. That's an entirely different set of circumstances to drive the reform agenda.

I'm fearful, having known these other recent examples of the current government, that this could in fact open the door to say, "You know what? We realized we can't afford to fix transportation. So rather than do anything about it in years seven, eight and nine, we'll have another round of consultations so that in year 10, after the election, we can start work on it." That really sits at the seat of where there's a problem.

"Consultation" is a buzzword that everybody says they support, but consultation has also been used as a criticism: You don't need to consult any more. We know what the issues are; let's get on with it.

That's why I'm having difficulty with the Liberals' proposed amendment. It's at the whim of the minister, and I just don't think we should be whimsical with this. I think we should empower the access council to drive the agenda. I will support this amendment from Mr. Marchese.

The Chair: Is there any further debate? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

We have another motion within this section from the government side.

Ms. Wynne: I move that section 31 of the bill be amended by adding the following subsection:

“Public consultation

“(4.1) At the direction of the minister, the council shall hold public consultations in relation to the matters referred to in subsection (4).”

I’ve explained why we’re moving this amendment, that it would be consistent with the other parts of this section. We do believe that public consultations should be part of the council’s mandate when the minister so deems.

The Chair: Any debate on the motion? If there is none, I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? The motion carries.

That is the end of section 31; therefore I’ll take a vote on the section. Shall section 31, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? The section carries.

Section 32, page 84.

Mr. Ramal: We are going to withdraw that and replace it with a different one, 84a. I believe everyone has a copy.

I move that subsection 32(3) of the bill be amended by adding the following clauses:

“(e.1) consult with organizations, including schools, school boards, colleges, universities, trade or occupational associations and self-governing professions, on the provision of information and training respecting accessibility within such organizations;

“(e.2) inform persons and organizations that may be subject to an accessibility standard at a future date of preliminary measures, policies or practices that they could implement before the accessibility standard comes into force in order to ensure that the goods, services, facilities, accommodation and employment they provide, and the buildings, structures and premises they own or occupy, are more accessible to persons with disabilities.”

1620

The Chair: Any debate?

Mr. Ramal: I believe it explains itself. It’s open for consultations and applies to all organizations mentioned in this clause.

Mr. Jackson: Just a question to Mr. Ramal: Why have you exempted the health care sector, for example, hospitals, which are included in the previous legislation?

Mr. Ramal: We mentioned all the occupational associations, self-governing professions and—

Mr. Jackson: Those are associations; they’re not institutions. I’m just wondering why hospitals, nursing homes and long-term-care facilities were exempted. We have what’s known as the MUSH sector: municipalities, universities, schools and hospitals. We’ve got municipalities covered where they have to supply access committees, right?

Mr. Ramal: Yes.

Mr. Jackson: We have schools, school boards, colleges and universities now covered. So the only people missing from the MUSH sector under this legislation are hospitals, and by extension, the “H” in the MUSH sector embraces all aspects of health. I’m just wondering why they’re exempt from the legislation.

Mr. Ramal: I believe (e.2) mentions facilities and accommodation, so I believe hospitals would be included, and other institutions. If we need to have more clarification, we can ask—

The Chair: Can staff assist us?

Ms. Wynne: If I could, my understanding is that this is about education around standards and accessibility, and that’s why these are the sectors that are included.

Ms. Hewson: That is correct. The purpose of this is to ensure that the Accessibility Directorate of Ontario will be speaking with educational institutions in order to consult with them around the curricula, the learning experience, so that there is sensitivity training, for example, as people are being educated in those professions or in the school system, around the needs of people with disabilities and accessibility issues.

The Chair: Mr. Jackson, are you satisfied with the question?

Mr. Jackson: No, I’m not, because I’m still not getting an answer as to why they’re exempt. If you are saying that we will provide training for nurses when they’re in school, that’s great. Then why have you added school boards, which don’t do curriculum? The province does the curriculum. Why have you included schools when it should just include school boards? I’m just looking for the consistency of the language.

Ms. Wynne: I think the reason school boards have been included as well as schools is that there are delivery mechanisms that a school board might have control over or an individual school might have control over. They are educational institutions. We heard many times in the hearings that education was a key component of making the attitudinal shift that needed to be made. So we’ve included the organizations, the institutions that have to do with educating children and adults.

Mr. Marchese: I want to speak to the weakness of the entire section. Subsection 32(3) says, “At the direction of the minister, the directorate shall,” and then it lists all the things it can do. I remind you, Chair, and your friends—I know you’re neutral on this committee—that what that language says is that this directorate exists at the will of or the pleasure of the minister, he or she, whoever that person might be at any given point. That means they are not independent, really. They are going to be told what they will do at any time. If they’re not told, the director-

ate really can't do anything, you understand, because they exist at the will of the minister. Even these additions that say "consult with" mean nothing, right? You're going to "consult with." So we add a little and it makes it appear like we're really getting involved with it, a "just to make me feel good" kind of motion. And (e.2), "inform persons and organizations," blah, blah.

The whole section is weak because it doesn't say to the directorate, "These are your responsibilities. Now go out, boys, and do it." It doesn't say that. These people are appointed and then they've got to wait. They say, "Minster, we're here. Do, please, let us know what we should do at any one time." And if the minister says, "Look, I'm busy with other things. We'll get back to you"—Liberal members, do you understand my problem?

Ms. Wynne: No.

Mr. Marchese: Oh, you don't, Kathleen? I could tell. I could tell that some of you have this stare-y kind of position on these issues because you don't support what I'm saying.

Mr. Kim Craiton (Niagara Falls): I understand you, Rosario.

Mr. Marchese: Do you, Kim?

Mr. Craiton: I don't agree with you, but I understand you.

Mr. Marchese: There you go. I needed to hear that to make me feel good. At least one person here—you too, Jeff?

Mr. Leal: I understand.

Mr. Marchese: That's two. That's good. We're making progress.

The directorate should be independent. They should be able to do a certain job and we should tell them what they could do. I'm telling you that when they wait at the pleasure of the minister, we don't know what they're going to do. I'm belabouring it just a touch, but I just wanted to point out the weakness of the language of that whole section.

Mr. Leal: I'm pleased that this amendment is coming forward, because in the Rae review of post-secondary education in Ontario—I'm going by memory—either recommendation 67 or 68 dealt specifically with the need for making colleges and universities accessible for students. I know that my friend Mr. Marchese is a very close ally of the former Premier, and when he made the recommendations—I'm sure he's very supportive of that and I look forward to his voting for this.

Mr. Marchese: Not only am I supportive of this amendment, but they would be wise, in order to make this happen, to change the language of "at the direction of the minister." If he is really so convinced of Bob Rae's argument, give them that power. Don't just say "at the direction of." I have no problem with the amendment, but give them the tools, and the tools are, "Give me the power." You're not giving me the power, Jeff, or at least not to the directorate. You must feel bad about that.

The Chair: I believe Mr. Jackson has a question.

Mr. Jackson: It would have been a point of order, I guess. Are there any further amendments that we're

going to see from the government today, and have they been shared with the committee?

The Chair: Mr. Ramal, could you please answer?

Mr. Ramal: Yes. Section 44—

Mr. Jackson: I mean new ones; ones you haven't tabled with us.

The Chair: Is there anything additional to what's on the agenda already that you're planning to introduce?

Mr. Ramal: I have one more, I guess.

The Chair: Which section would that be?

Mr. Ramal: Section 40.1 of the bill.

Mr. Jackson: That means nothing to us. Custom and courtesy has been established in this committee, and that's why I went to the Chair on a point of order. I thought we had an understanding that if we had amendments, we would share them with the committee in the interests of time.

The Chair: Could I ask, Mr. Ramal, that you issue to all of us a copy of the amendment that you—

Mr. Ramal: Everyone has a copy.

Mr. Marchese: We have a copy right here.

Mr. Jackson: Of which one?

Mr. Marchese: Of sections 41 and 42 of the bill.

Mr. Ramal: Pages 105a, 105b and 105c.

Mr. Marchese: Could you get him a copy? That's what he's asking.

Mr. Ramal: Everyone has copies.

Mr. Jackson: What about page 102a?

The Chair: So then there is no addition.

Mr. Jackson: Rosario, do you have 102a?

Mr. Marchese: Of that one?

Mr. Jackson: No, 102a.

The Chair: Is the answer clear?

Mr. Jackson: I was handed this one from the government and I may be the only member who has it. It was handed to me: 102a.

Mr. Marchese: May I see that?

Mr. Jackson: It was just handed to me. I just want to make sure that everybody is getting this information. I'll give it to the clerk. It was handed to me as a government motion. I just think we should treat everybody the same here.

1630

The Chair: Could we make sure that everybody gets any amendments or motions at the same time through the clerk? She will distribute it so there's no confusion on the matter. Can we move on?

Mr. Marchese: Sure thing.

The Chair: Is there any other debate on this item? If there is none, I will now put the question. Shall the motion carry?

Ayes

Craiton, Fonseca, Leal, Wynne.

The Chair: Those against? None. The motion carries. That deals with section 32. I will take a vote on section 32. Shall section 32, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? The section carries.

We go to section 32.1.

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

“Accessibility Commissioner

“32.1 (1) There shall be appointed, as an officer of the Legislature, an Accessibility Commissioner to exercise the powers and perform the duties specified in this section.

“Appointment

“(2) The Accessibility Commissioner shall be appointed by the Lieutenant Governor in Council on the address of the Assembly after consultation with the chair of the standing committee of the Assembly on public accounts.

“Term of office

“(3) A person appointed as Accessibility Commissioner shall hold office for a term of 10 years and shall not hold office for more than one term.

“Same

“(4) The Accessibility Commissioner shall continue to hold office after the expiry of his or her term until a successor is appointed.

“Removal

“(5) The Accessibility Commissioner may be removed from office for cause, before the expiry of his or her term of office, by the Lieutenant Governor in Council on the address of the Assembly.

“Salary

“(6) The Accessibility Commissioner shall be paid a salary within the average range of salaries paid to deputy ministers in the Ontario civil service and is entitled to the privileges of office of a senior deputy minister.

“Pension

“(7) The Accessibility Commissioner is a member of the public service pension plan.

“Employees

“(8) Subject to the approval of the Lieutenant Governor in Council, the Accessibility Commissioner may employ such officers and employees as the Accessibility Commissioner considers advisable for the efficient operation of his or her office and may determine their salary and remuneration and terms and condition of employment.

“Employee benefits

“(9) The following employee benefits applicable from time to time to public servants of Ontario apply to the permanent and full-time employees of the Accessibility Commissioner:

“1. Cumulative vacation and sick leave credits for regular attendance and payments in respect of such credits.

“2. Plans for group life insurance, medical-surgical insurance or long-term income protection.

“3. The granting of leave of absence.

“Same

“(10) If the benefits referred to in subsection (9) are provided for in regulations made under the Public Service Act, the Accessibility Commissioner, or any person authorized in writing by him or her, may exercise the powers and duties of a minister or deputy minister or of the Civil Service Commission under the regulations.

“Employees’ pension benefits

“(11) The Accessibility Commissioner shall be deemed to have been designated by the Lieutenant Governor in Council under the Public Service Act as an organization whose permanent and full-time probationary staff are required to be members of the public service pension plan.

“Premises and supplies

“(12) The Accessibility Commissioner may lease such premises and acquire such equipment and supplies as are necessary for the efficient operation of his or her office.

“Audit

“(13) The accounts and financial transactions of the office of the Accessibility Commissioner shall be audited annually by the Auditor General.

“Functions of Accessibility Commissioner

“(14) The functions of the Accessibility Commissioner are,

“(a) to monitor and report to the people of Ontario on the implementation of the goals laid out in this act;

“(b) to promote an understanding and acceptance of and compliance with this act;

“(c) to develop and conduct programs of public information and education and undertake, direct and encourage research designed to eliminate discriminatory practices that result in barriers to persons with disabilities;

“(d) to inquire into complaints concerning a failure to comply with an accessibility standard; and

“(e) to perform functions assigned to it under this act or any other act.”

This act needs an Accessibility Commissioner. It needs an advocate. We have an Environmental Commissioner, and the reason for that is because it makes the government accountable. The Environmental Commissioner makes the government accountable on areas of the environment. An Accessibility Commissioner would do the same—ought to do the same. We need an advocate, someone who is going to have the power, not at the direction of the minister, to do certain things. That’s laid out through (a), (b), (c), (d) and (e).

In my view, not to have an Accessibility Commissioner is to leave it at the whim of government. There’s no doubt some things will happen over a 20-year period. There’s no doubt that the people of accessibility are really very happy to have this. It’s better than a kick in the teeth, for sure, but an Accessibility Commissioner is what they’re looking for, as someone who’s independent, free of influence, someone who would report to the

Legislative Assembly, someone the people with disabilities could be happy about and someone who would hold the government accountable to the bill.

We need an advocate. If we don't have one, we're not going to get the kinds of things that we're looking for in this bill. In spite of the good feelings you have about this bill and in spite of all the great things you say about what's going to happen, this Accessibility Commissioner would help you to do the job. Not to have such a person is to have a weak bill; better than a kick in the teeth, for sure, but it will be a weak bill without an Accessibility Commissioner.

Mr. Craitor: Mr. Chair, just a question, through you to my colleague Rosario: There are two amendments here: the one you've just read and there's one that also shows "86." Can you just tell me the difference between the two?

Mr. Marchese: Yes, (c) and (d) of the functions of the Accessibility Commissioner are not part of it. It's the same motion without (c) and (d). If you look at page 85, you see the functions of the Accessibility Commissioner. It just might make it easier for you to accept the other one in the event that you defeat this one. That's why the other one is there.

1640

Mr. Craitor: Good planning. OK. Thank you.

The Chair: Is there any further debate on the motion? If there is none, I will now put the question. Shall the motion carry?

Ayes

Craitor, Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

Mr. Marchese, would you like—

Mr. Marchese: Mr. Chair, if we have dispensation, could I just simply make reference to the only change of this motion rather than reading it all out?

The Chair: Yes, that's fine, Mr. Marchese.

Mr. Marchese: Page 86, same amendment, except it doesn't have (c) and (d) of the previous amendment, which speak of:

"(c) to develop and conduct programs of public information and education and undertake, direct and encourage research designed to eliminate discriminatory practices that result in barriers to persons with disabilities;

"(d) to inquire into complaints concerning a failure to comply with an accessibility standard."

The same motion without those two sections—omissions.

The Chair: I believe you already made reference, when Mr. Craitor spoke, on the difference.

Mr. Marchese: That's correct.

The Chair: OK. Is there any further debate on the motion? I will now put the question. Shall the motion carry?

Ayes

Craitor, Jackson, Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry. That section does not carry. It's a new one.

We move on to section 33, page 87. Mr. Jackson, please.

Mr. Jackson: Actually, Mr. Chairman, I'll be reading page 88.

I move that subsection 33(4) of the bill be struck out and the following substituted:

"Limitations on exemptions

"(4) The minister shall not grant an exemption under subsection (3) unless the minister is satisfied that the prescribed criteria for the granting of the exemption have been met and that the granting of the exemption is consistent with, and will help promote, the purposes of this act.

"Time limitation

"(4.1) An exemption under subsection (3) shall not be granted for a period that is longer than the prescribed period."

Again, we've got the overusage of the "may" provision. It's bad enough we've got an exemption section for the minister that you can drive a truck through, we then go down the line further in this section that the government drafted and it says, "And, oh, by the way, in granting an exemption which is prescribed by the amount of time, we have the right to extend it indefinitely."

As someone who sat at privy council, this isn't good because, for the obvious reason, people then have to appeal directly to cabinet as to why somebody has been granted an open-ended exemption. This was the best I could do in terms of tightening that up by virtue that it must help promote the purposes of this act and that you cannot grant an exemption beyond the period which has been prescribed; otherwise, in effect, it becomes an exemption in perpetuity by just saying that the minister hasn't terminated it so it continues in perpetuity. I just think that's fundamentally wrong. That's why that one has been tabled.

The Chair: Now, page 87 has been withdrawn and of course we're dealing with page 88. Mr. Marchese.

Mr. Marchese: I just want, for the record, to speak from the ODA committee's analysis of this where they say, "Section 33 of the bill includes a positive new power for the minister to enter into incentive agreements with organizations that are prepared to agree to exceed the requirements of accessibility standards established under this act.

“Section 33(3), however, gives the minister an inappropriate open-ended discretion to exempt an organization from filing an accessibility report or other filing requirements. This loophole threatens to undermine the effectiveness of these agreements as a tool to promote the bill’s goals. It enables these agreements to become a means for making it hard to enforce the act in the case of organizations entering into these agreements.”

It’s a sound argument. This amendment attempts to solve that problem somewhat, so it’s better than what is currently there. I wanted to put the case put forth by the ODA against exemptions altogether.

Ms. Wynne: The idea of the exemptions is to give organizations that have demonstrated that they’re going to exceed the standard a bit of a break on administrative processes. One of my concerns during the hearings was that we hadn’t laid out a process for the reasons or criteria for exemptions being clear, and we’re introducing an amendment to clause 40(1)(r) that would require that reasons be given for an exemption. So I’m hoping that we’ll have support for that amendment.

The Chair: Any further debate? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry. Shall section 33 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? Section 33 carries.

A new section, Mr. Jackson. Pages 89 and 89a, please.

Mr. Jackson: I move that the bill be amended by adding the following part:

“Part IX.1

“Reviews of Legislation

“Ministry reviews

“33.1(1) Within such time after the coming into force of this section as may be prescribed, every minister shall ensure that a review of all statutes for which the minister is responsible and of all regulations made under those statutes is completed.

“Purpose

“(2) The purpose of a review under this section is,

“(a) to identify barriers that are created under the statute or regulation or that the statute or regulation has failed to remove or otherwise address; and

“(b) to make recommendations for amendments to the statutes and regulations that would remove the barriers or prevent the erection of other barriers in the future.

“Report

“(3) The Minister shall prepare a report of the review of its statutes and regulations.

“Content of report

“(4) The report shall set out a plan for the implementation of the recommendations referred to in clause (2)(b) within the prescribed time period and, if a decision has been made not to proceed with a recommended amendment, set out reasons therefor.

“Report made public

“(5) The report shall be made available to the public in the prescribed manner.

“Future legislation

“(6) The minister shall, before recommending to cabinet that a bill be introduced in the assembly or that a regulation be made or before making a regulation, satisfy himself or herself that the bill or regulation does not contain any provisions that would create or facilitate the existence of barriers for persons with disabilities.

“Legislation relating to construction

“33.2(1) Within such time after the coming into force of this section as may be prescribed, the Minister of Municipal Affairs and Housing shall ensure that a review of all statutes and regulations related to construction industry be completed.

“Scope of review

“(2) The review shall include,

“(a) the Building Code Act, 1992 and the regulations made under that act;

“(b) the Planning Act and the regulations made under that act;

“(c) the Condominium Act, 1998 and the regulations made under that act;

“(d) such other statutes and regulations as the Minister of Municipal Affairs and Housing considers advisable.

“Consultation

“(3) The Minister of Municipal Affairs and Housing shall consult with any other minister responsible for other legislation that is the subject of the review.

“Purpose of review

“(4) The purposes of the review are,

“(a) to harmonize the requirements in various statutes and regulations that are intended to eliminate barriers for persons with disabilities in the construction of buildings and structures;

“(b) to encourage improvements to old and existing buildings and structures that are not accessible by persons with disabilities;

1650

“(c) to ensure that the construction of new residential buildings by developers meet the requirements of the accessibility standards;

“(d) to ensure that professionals involved in the design and construction of buildings receive training in barrier-free design and to work with governing bodies or associations of such professionals to ensure such training is provided;

“(e) to require professionals referred to in clause (d) to advise individuals building a new residential home of

features that could be incorporated in the home to make it more accessible for persons with disabilities; and

“(f) to provide for the training of municipal building inspectors in matters relating to accessibility.

“Report

“(5) The minister shall prepare a report of the review.

“Content of report

“(6) The report shall set out a time frame to implement measures identified in the report intended to help achieve the purposes of the review.

“Report made public

“(7) The report shall be made available to the public in the prescribed manner.

“Review of municipal bylaws

“33.3(1) Within such time after the coming into force of this section as may be prescribed, the council of every municipality shall ensure that a review of all of its bylaws is completed.

“Purpose

“(2) The purpose of a review under this section is,

“(a) to identify barriers that are created under the bylaws or that the bylaws have failed to remove or otherwise address; and

“(b) to make recommendations for amendments to the bylaws that would remove the barriers or prevent the erection of other barriers in the future.

“Report

“(3) The council shall prepare a report of the review.

“Content of report

“(4) The report shall set out a plan for the implementation of the recommendations referred to in clause (2)(b) within the prescribed time period and, if a decision has been made not to proceed with a recommended amendment, set out reasons therefor.

“Report made public

“(5) The report shall be made available to the public in the prescribed manner.”

This comes out of a concern that I had under the previous legislation, where the work of one ministry does not have primacy over another, and that we try to make amendments to the Building Code Act, which is separate legislation with a separate 10-year-cycle time frame in which reforms can occur. I want to make it clear that a commitment to make Ontario more accessible needs to be done in a fairly timely manner and that those legislations need to be opened in order to effect the reforms. Currently that isn't the case. In fact, without this clause, the government would actually have to come forward to amend each of those legislations individually just to open them for review. This allows the government the authority to go and do that. I think that's very important.

I know there are some problems. AMO would like to negotiate not to have to make amendments to the Planning Act that will cause them and their staff a degree of cost or grief. But if we're committed to this legislation, then we need to overcome the fact that all the various ministries have their silos, but really the municipalities—through the instruments of the building code, the Planning Act and the others I've referenced—hold

the magic key to unlocking why we build buildings and everything else that continue to discriminate against persons with handicaps or cause further barriers.

That work needs to be done almost immediately. This review of legislation for conformity to cause ministers to come together to make it a priority is set out in this recommendation. Unfortunately, you're left with a Minister of Citizenship, as I was, who is left at the cabinet table to plead, “Is it OK if we go in and deal with the accessibility of this sector this year?” That's a flaw in both of our legislations. This says that there would be a commitment by all ministries to begin the process. That's essentially what my bill—the original bill, Bill 125—did by forcing all ministries to do access plans and to start the conversion process. The advisory council would set the standards and give them to the minister, who would then take them to cabinet, and they'd become the regs. This is a very serious issue, and it strikes at the heart of why we're still building apartment buildings and commercial properties that clearly discriminate against the free and open access for persons in our province.

As well, this says, “This will be a priority of the government,” as opposed to taking 20 years to potentially get at some substantive issues that have been identified. That's the purpose in tabling it. It has the support of the ODA committee, because this allows the review to recur in a public way to those four pieces of legislation that I mentioned in my motion.

The Chair: We're going to deal with the entire new section. Ms. Wynne and then Mr. Marchese.

Ms. Wynne: Just very briefly, section 39 in the bill exists so that if an accessibility standard conflicts with the provision of another act or regulation, the provision that provides the highest level of accessibility would prevail. That is in place because the prospect of opening every piece of legislation would be pretty debilitating for the government. There are regular cycles of review of legislation, but we need that section to make sure that the highest standard prevails. That's why that's there. I won't be voting for this amendment.

Mr. Marchese: Just briefly to say that I support the spirit of this amendment. Any government that could do that would be a great government. I don't think any government that we have, or will have, will ever do these things. It's just so hard to do—and it should be done. If we really want to deal with the spirit of this bill, it should be done. But the previous government wouldn't have done it, I suspect an NDP government wouldn't have done it, and I guarantee that a Liberal government wouldn't do it. The spirit of this amendment is sound and the arguments are sound, and for that reason I will be supporting it. But it is because governments are unable to do this and largely unwilling to do this that it will be defeated.

Mr. Jackson: The point I'm trying to make here is that the Building Code Act does not come up for renewal again until 2012. Ms. Wynne makes the point, but that was the same point I had in my legislation, that it shall have primacy. They took the clause directly out of my

legislation. The fact is that if it isn't before you for review, then the matter is in question. Nor is it being driven. It is very possible that the review of the building code—and I shouldn't say this, but the fact is that the building code review was going on. We didn't take full advantage of that opportunity when we had that legislation opened up to make those changes. The reason that happened wasn't because anybody was mean-spirited; it means that the process excluded accessibility. The process said that it will only "have regard" for it. That's the first point. If you haven't been briefed on that point, it's an important point you should know.

So the disability community was politely told, as it has been throughout the last half-century when we've had building codes, "Give us your input." But the purpose of it was driven by municipalities, who have to implement it, and by trade associations and others who have to pay for the change in the standards and deal with public safety and all those other issues. That's what's driving it, and it will not get opened up again until 2012.

In fairness to the government, they've said: "This could take 20 years." The thing that upset me the most was that we continue to build things that are inaccessible. This is the fastest way to stop it. It was Mr. Parsons who has echoed these comments many times; I'll give him the credit. The easiest reform or change you can make in accessibility is not to create or build a new one. It's so simple.

1700

If you read my amendment and consider it—I disagree with Mr. Marchese; every government has the responsibility to review these from time to time. The Planning Act is when AMO beats up on a government and they capitulate and say, "Yeah, you're right; we'll deal with the Planning Act." The Condominium Act hasn't been opened up in a long time, and I doubt it's going to be opened up again for a while. The building code is prescribed. The fact is, until we get at them, that's how we're going to cause these things to be changed.

Anyway, defeat it if you must, but believe me when I tell you that this was an experience that was not good for this province, that these acts are not coming into full view and under the microscope before the disability community. I lament that fact because the design of the previous legislation was to put the pressure on the ministries to fix things. Of all the ministries that I felt were critical, this one has to get started immediately, and it isn't on the list. It's not on the list of the minister—and she can change her list; I'm not saying it's not on her list. The three or four places she said she'd begin—this ain't even on the radar screen. That's why I put it in; that's why ODAC is concerned about it. All of us are going to be around here in 28 months to commiserate off the record as to whether or not—

Mr. Marchese: At least 28.

Mr. Jackson: No, we're all going to be here in 28 months; it's the 29 months when a lot of people aren't going to be back. But at least for now we're together, and we should try to work together to get this fixed.

The Chair: Is there any further debate on the motion? If there's none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The new section does not carry, so we'll go to the next new section. Mr. Jackson, page 90 and 90a.

Mr. Jackson: I thought that we had already dealt with 90. Oh, this is the elections. Sorry.

I move that the bill be amended by adding the following:

"Part IX.2

"Making Elections Accessible

"Ballots

"33.4 Despite anything in section 34 of the Election Act, for the purposes of an election under that act, ballots shall be available at every polling place in a prescribed form that enables electors with disabilities to mark the ballots by themselves and in private.

"Polling places

"33.5(1) Despite anything in section 13 of the Election Act, in an election under that act, a returning officer shall ensure that every polling place is in a location that is accessible to electors with disabilities.

"Exception

"(2) Subsection (1) does not apply where a location that is accessible to electors with disabilities cannot be found within eight kilometres of the location that would have been selected were it not for subsection (1).

"Sign language and other accommodation

"(3) In an election under the Election Act, a returning officer shall ensure that all polling places in the electoral district provide sign language interpretation for electors who are deaf or hard of hearing and provide such other accommodation of other disabilities as is reasonable.

"Municipal elections

"33.6(1) Despite anything in section 41 of the Municipal Elections Act, 1996, in a municipal election, ballots shall be available at every polling place in a prescribed form that enables electors with disabilities to mark the ballots by themselves and in private.

"Voting places

"(2) In accordance with subsection 45(2) of the Municipal Elections Act, 1996, the clerk of a municipality shall ensure that a voting place is accessible to electors with disabilities.

"Exception

"(3) Subsection (2) does not apply where the voting place that is accessible to electors with disabilities is more than eight kilometres from the voting place that would have been selected were it not for subsection (2).

"Sign language and other accommodation

“(4) In an election under the Municipal Elections Act, a returning officer shall ensure that all polling places in the electoral district provide sign language interpretation for electors who are deaf or hard of hearing and provide such other accommodation of other disabilities as is reasonable.”

Very briefly, I feel very strongly about this, because there was a lot of resistance to allowing the disabled to have accessible voting rights in our province—a lot of resistance in every quarter except within the disability community.

In the previous bill, we called upon the Chief Election Officer to prepare a report and to get those reports from every single provincial riding that had an election. I have tried unsuccessfully to get a copy of that report. I am of the belief now, with all the resistance that was presented, that the only way we’re going to make our balloting system and voting rights accessible to the citizens of Ontario is if we put it in legislation. This is one of the opportunities we have to do it.

Failing that, I understand the government is going to be opening up legislation to deal with giving the north some extra seats under redistribution, and I’ll have an opportunity to table the same amendments then. However, I feel very strongly that there is no real political will to do this. It has been a reasonable request for some time.

I would ask that—we’re facilitating it in the interests of time—we separate provincial elections from municipal elections and have two votes. I respect that persons like Mr. Leal and Mr. Craitor, who hold municipal office, may wish to speak to this, about its being inappropriate or whatever. But as we are all provincial legislators, we can effect the change to our Ontario Elections Act.

The Chair: Mr. Jackson, I’m advised that we cannot split the motion as you indicated. Therefore, I’m going to leave the motion as it is.

Mr. Marchese and then Mr. Leal.

Mr. Marchese: I support this amendment.

Mr. Leal: I commended the government back in 1996 when they did change the Municipal Elections Act, because through that act, clerks of municipalities were directed to make sure that all polling locations for municipal elections were fully accessible. That was standard fare across the province. AMO was involved; there was a large and public consultation when the Municipal Elections Act was changed. They changed a lot of elements of that. You would concur, Mr. Chairman, because you were a city councillor. We went a long way to make sure the disabled community could get access for municipal elections. I know that was a big issue for the clerks’ association, and I give the government of the day credit for making sure that was carried out.

Mr. Jackson: I’ve done a little research on this. In 1996, the definition of accessibility was confined to persons in wheelchairs.

Interjection.

Mr. Jackson: Believe me, we’ve gone through this. If you are suggesting that in Peterborough you have sign-language interpreting and Braille ballots in your community—

Mr. Leal: We went to voting machines, so we did have a different ballot.

Mr. Jackson: Fair enough. Your community chose to do that. I am simply saying that in the last provincial election, these services were not available to the disabled community. ODAC has said so.

The Chair: In the province of Ontario.

Mr. Jackson: In the province of Ontario.

It’s because we asked the commissioner to come forward with the recommendations, and they’re not forthcoming. We didn’t get anything. There’s no political will there. Like most major bureaucrats who are responsible for departments, he says, “If you give me the money, then I’ll do it.”

I’m not getting into that argument. I’m simply saying that it didn’t happen, and it didn’t happen because we said, “That was the last election that we won’t have a fully accessible election.” But the report now comes to Minister Bountrogianni under the legislation. I don’t see her beating down the Chief Election Officer’s door saying, “Where the hell’s my report? I want to make sure we’re ready.” I’ve checked with Mr. Bryant’s office. It’s not on his agenda for democratization and fixing the next provincial election. That’s the issue here.

1710

Either we are going to, in the advance polls, make Braille ballots available or we’re going to have prior notice that people in polling stations need that in order to make it accessible.

A couple of weeks ago, I was working with deaf-blind persons. They need to have those assurances, for those who don’t understand Braille, and there’s no real accommodation for them. The skill set isn’t out there. We have the 28 or 29 months that I’ve been talking about to get ready for it, but not unless we put it in legislation. We’re still waiting for the damn report from the elections commissioner of Ontario.

Mr. Leal is absolutely correct that municipalities are doing a much better job today than ever before, but if you look at the Municipal Elections Act, which was amended, there was a huge amount of pushback about interpretive services, Braille and so on. The disability community said to us, “Access isn’t just ‘Can I get my wheelchair into that restaurant?’ It’s everything else.” I got it; I’m just surprised we aren’t all getting it.

The Chair: Any further debate? If there’s none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Leal, Ramal, Wynne.

The Chair: The motion does not carry.

We’ll go back to Mr. Jackson, on pages 91 and 91a.

Mr. Jackson: I move that the bill be amended by adding the following part—well, it won’t be part IX.3

because it'll be paginated properly and numbered properly:

“Educational requirements

“School board

“33.7(1) Every school board that is a board as defined in subsection 1(1) of the Education Act shall develop and implement school curriculum components to teach its students about the barriers for persons with disabilities that exist in their community and at large and about the various ways of identifying, removing and preventing those barriers.

“Ministry curriculum

“(2) Within the prescribed period after the day this section comes into force, the Ministry of Citizenship and Immigration and the Ministry of Education shall prepare a model curriculum that may be adopted by school boards under subsection (1).

“Professional training, architects

“33.8(1) The council of the Ontario Association of Architects shall ensure that, within the prescribed time after the day this section comes into force, the admission course offered by the association and required before an individual can obtain a licence to practise architecture in Ontario shall be modified to ensure that students are trained in how to design buildings and premises that are free of barriers for persons with disabilities.

“Same

“(2) The council of the Ontario Association of Architects shall develop a program with respect to the training referred to in subsection (1) within the prescribed time period and shall submit it to the minister for his or her approval.

“Same, other professional

“(3) The Lieutenant Governor in Council may make regulations,

“(a) requiring the governing bodies of prescribed professional associations whose members work in the construction industry to refuse professional recognition to applicants who do not receive training on how to design or construct buildings and premises that are free of barriers for persons with disabilities; and

“(b) requiring those governing bodies to develop training programs that meet the prescribed criteria and to have the programs approved by the minister.

“Training on running a practice

“33.9(1) The benchers of the Law Society of Upper Canada, the council of the College of Physicians and Surgeons of Ontario, the Ontario College of Teachers and the governing body of any other prescribed profession shall ensure that, within the prescribed period after the day this section comes into force, the training described in subsection (2) is provided to applicants who wish to be granted the right to practise the profession before they are granted that right.

“Same

“(2) The training shall inform the students on measures and practices that they should follow in order to ensure that their services are accessible to persons with disabilities and shall meet the prescribed requirements.”

The Chair: We will deal with all the sections. Is there any debate?

Mr. Marchese: Briefly, this amendment is similar to something that New Democrats had introduced earlier and was defeated. It's quite different, but the effect is the same. A lot of deputants spoke about education and that the way to deal with discrimination against people with disabilities is in the education system. This subsection 33.7(1) would do that. It's an effective part of reaching out and educating students.

The other part is to do with making sure that professionals who deal with designing buildings and premises know that they should be free of barriers. It's a measure that I think is a critical part of how we educate and train those who are in this field who ought to know the various barriers that people with disabilities face. So I think it's a reasonable motion.

Mr. Ramal: For the record, I guess, we dealt with this motion when we were discussing section 32 of the bill. We passed it, and we talked in detail about which regulation should be applied and which steps should be taken.

Mr. Marchese: It's not the same.

Mr. Jackson: I don't want to appear rude, but that is so far from what's in front of you. I'm sure that the other members of your team get it, but since you're the spokesperson—

Interjection.

Mr. Jackson: No, I'm sorry. I want to be very careful that I'm not rude, but I'm just trying to say—

The Chair: I think everybody understood. We may interpret it differently. But anyway, you have the floor.

Mr. Jackson: They are substantively different. It specifically impels and calls upon the government to immediately begin the process of changing the curriculum—period, end of sentence, full stop.

This one says that we should consult, that we may make some changes if, on the direction of the minister—maybe. It talks about informing persons and organizations. I'm telling you, we need to be prescriptive. Your Minister of Health figured this one out when he worked on the OMA agreement and talked about the fact that 70% of a doctor's caseload today is senior citizens, and yet they spend less than six hours dealing with seniors over the course of five years of training. He gets it.

You have to go in and change the curriculum and tell people, “You must understand this and make the changes.” We're training people to make decisions about future buildings. I don't think we need to consult about this. Why do we have to be soft? I appreciate that the government crafted this motion after it saw that I had tabled these prescriptive requirements; that's fine. But don't stand here and tell people that we've already dealt with this. You're no more dealing with the architects being required to take the course and learn it than—anyway. I'm sorry; I'm reacting. If you're going to defeat it, defeat it for a good reason; don't suggest that you've already dealt with it, because you sure haven't.

The Chair: Is there any further debate? If there is none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The new section does not carry.

On sections 34 and 35 there is no amendment. Therefore, I'll take a vote for both. Shall sections 34 and 35 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? Both sections carry. Section 36, page 92: Mr. Ramal or Ms. Wynne.

Ms. Wynne: We will not be supporting section 36 of the bill because of the potential for personal information to be disclosed. We've revised our position on that.

Mr. Jackson: What about if you're disabled and adopted?

Ms. Wynne: We're proposing this amendment to remove section 36 from the bill.

Sorry; I didn't hear the comment from Mr. Jackson.

Mr. Jackson: I was saying, "Well, what about if you're disabled and you're adopted? Then we'll allow the personal information."

The Chair: Any debate on the motion?

Mr. Marchese: We support the government.

1720

The Chair: Any further debate? If there's none, I will now put the question. Shall section 36 carry?

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The section does not carry. We move to section 37.

Ms. Wynne: I move that subsection 37(3) of the bill be amended by striking out "deemed to be made on the third day" and substituting "deemed to be made on the fifth day."

This is a technical amendment that would extend the time for deemed service of documents on a person by mail to five days.

The Chair: Is there any debate on the motion?

Mr. Marchese: It seems like a reasonable amendment. I'm going to be supporting this.

The Chair: I'm pleased to hear the supportive comments. I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Marchese, Ramal, Wynne.

The Chair: Those opposed? The motion carries.

Therefore, I'll take a vote. Shall section 37, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Wynne.

The Chair: Those opposed? The section carries as amended.

We've got section 38, page 94.

Mr. Jackson: I move that section 38 of the bill be amended by adding the following subsection:

"Further offences

"(6) The following are guilty of an offence and on conviction are liable to a fine of not more than \$50,000:

"1. A ministry that contravenes clause 28.8(1)(a) or subsection 28.8(4).

"2. A public transportation organization that contravenes clause 29.12(1)(a) or subsection 29.12(4).

"3. A prescribed public sector organization that contravenes clause 29.13(1)(a) or subsection 29.13(4)."

Briefly, the concerns I have here are that the penalties are only for persons or corporations. It does not set out clearly that it will include—

The Chair: I'm sorry, Mr. Jackson. I'm told that because the amendment did not go through, this entire section is out of order.

Mr. Jackson: Because the previous sections weren't approved? OK. I want to thank the clerk for being on top of that early.

The Chair: We're going to remove that. Therefore, I have section 38 with no amendments. Shall section 38 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? That section carries. I have section 39. Shall section 39 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? That section carries.

We have a new section, section 39.1

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

"Tribunal decisions

"39.1 Every prescribed tribunal shall, in exercising a statutory power of decision, make reasonable efforts to render a decision that will not have an adverse effect on persons with disabilities and that will remove and prevent, to the extent possible, barriers for persons with disabilities."

It's self-explanatory.

Ms. Wynne: It just seems to me that this is too prescriptive and really doesn't allow the independence of the tribunal, so I certainly won't be supporting it.

The Chair: Any further debate? If none, I will now put the question. Shall the motion carry?

Ayes

Jackson.

Nays

Craitor, Fonseca, Ramal, Wynne.

The Chair: The motion is not carried. That's a new section, so there is no vote.

Section 40, page 96, Mr Ramal.

Mr. Ramal: I move that clause 40(1)(q) of the bill be struck out and the following substituted:

“(q) defining the terms ‘accessibility’, ‘accommodation’ and ‘services’ for the purposes of this act and of the regulations.”

This is also a technical amendment, and I think the clause is clear.

The Chair: Is there any debate on the motion?

Mr. Jackson: Could I ask the government why this is being deleted, or what—

Mr. Ramal: It's defining.

Mr. Jackson: OK. Thank you.

The Chair: Any further debate?

I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Jackson, Ramal, Wynne.

The Chair: Opposed? The motion carries.

Page 97, Mr. Marchese.

Mr. Marchese: I move that clause 40(1)(r) of the bill be struck out.

That clause says:

“The Lieutenant Governor in Council may make regulations ...

“(r) exempting any person or organization or class thereof or any building, structure or premises or class thereof from the application of any provision of this act or the regulations.”

I refer to the ODA Committee's arguments on this, where they say, “There is no reason why cabinet should have the power to exempt any organization or building from this act.” They then argue, “Under Bill 125, the previous government's proposed Ontarians with Disabilities Act, cabinet was given a similar unwarranted power to grant exemptions. Section 22(1)(i) of Bill 125 provided that cabinet could make regulations.” Then they say, “The Liberal Party”—that would be you guys—“and the NDP”—at the time—“each proposed a comparable amendment to that provision on December 11, 2001. This would have amended clause 22(1)(i) of Bill 125 by adding at the beginning ‘upon approval of the minister and after consulting with the Barrier-Free Council of Ontario and making written reasons available to the public.’”

I recap my argument: When the Tories introduced this in their Bill 125, you Liberals and we New Democrats bonded together and opposed exemptions at that time. I'm urging the same bond again. Let's do this again, now

that you're in government, and let's together oppose what you opposed in 2001. I appeal to them to apply a consistency of argument similar to what they made in 2001.

The Chair: Brothers and sisters.

Mr. Marchese: What are you saying, Chair?

The Chair: I'm happy to hear—

Mr. Marchese: I'm just trying to bond with them again, right?

The Chair: Mr. Jackson.

Mr. Jackson: Yesterday we discussed at length the fact that mediation wasn't a mutual agreement, that one party could be dragged and forced into mediation. Now I have a concern with clause 40 (1)(l), which is referred to in the amendment, because now a disabled person who wishes to appeal a decision will be forced to go into a process that requires them to pay a fee.

Mr. Marchese: We're dealing with 40(1)(r).

Mr. Jackson: You're not deleting with (l)?

Mr. Marchese: No, we're deleting (r).

Mr. Jackson: Well, you should be deleting (l).

Mr. Marchese: You might be right.

Mr. Jackson: Well, we might make a friendly amendment to include (l) and (r) in subsection 40(1).

1730

Mr. Marchese: I'm not going to do that.

Mr. Jackson: You're not going to do that?

Mr. Marchese: No.

Mr. Jackson: I wish you would, because I just don't think it's fair that we tell the disabled community, “You must pay a fee.” I understand the notion of a fee, but if it's \$150, that's certainly a lot worse than \$50 or \$10 or \$5. I hear people have a hard time even paying for their photocopying.

Mr. Marchese: I do agree with Mr. Jackson. There's no doubt about that.

The Chair: Any further debate? I will now put the question.

Mr. Marchese: Hold it. What about the bond?

The Chair: Mr. Marchese, I asked the question. I will now put the question. Shall the motion carry?

Ayes

Marchese.

Nays

Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

We go to Mr. Jackson, on page 98.

Mr. Jackson: It's unnecessary. That matter has been dealt with, Mr. Chairman.

The Chair: Mr. Jackson, page 98 is identical to page 97, so if you don't mind, we'll withdraw it. OK.

We go to page 99. Mr. Marchese, back to you, please.

Mr. Marchese: I move that section 40 of the bill be amended by adding the following subsection:

“Opportunity for comments

“(1.1) The Lieutenant Governor in Council shall not make a regulation under subsection (1) unless the Lieutenant Governor in Council has,

“(a) published a draft of it in the Ontario Gazette at least 90 days before making the regulation;

“(b) allowed interested persons a reasonable opportunity to comment on the draft; and

“(c) made a report to the public summarizing any comments received under (b).”

I refer to the ODA document again. It's a wonderful resource. I should have used it more frequently. Here is what they say in that regard: that “section 40 of the bill be amended to provide that before cabinet can enact a regulation under section 40, it should make public in an accessible format a draft regulation, and provide a reasonable opportunity for public input, in general accordance with the proposed amendments to Bill 125 that the Liberal Party”—that would be your party—“like the NDP, proposed in December 2001.”

Even then, we bonded. Now you're in government, and you see how that bond can simply disconnect so quickly. I want to remind you how close we were.

Mr. Craitor: I wasn't here.

Mr. Marchese: Some of you weren't here; it's true. But I just remind you how close we were when we were in opposition together fighting the other bill because we thought it was so weak. The Liberals and New Democrats argued in the same way.

The Chair: We weren't here.

Mr. Marchese: You weren't all here, but it's history. I'm sure you all read the ODA submission.

Interjection.

Mr. Marchese: It's just a useful reminder in the event that it slipped your mind. I wanted, for the record, to simply point out that we were together on this very section. If we are consistent with the arguments your colleagues made back then, you will support it today, for the same reasons.

The Chair: Any further debate? I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry.

Mr. Jackson, page 100, please.

Mr. Jackson: I move that section 40 of the bill be amended by adding the following subsection:

“Exemptions

“(2.1) A regulation shall not be made granting an exemption under clause (1)(r) unless,

“(a) a person or organization has applied to the minister for the exemption;

“(b) the minister has published the proposed regulation in the prescribed manner;

“(c) the regulation sets out the reasons for granting the exemption; and

“(d) the exemption is granted for a period specified in the exemption which does not exceed a prescribed period.”

The Chair: Any debate on the motion?

If there's none, I will now put the question.

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Page 101, Mr. Leal.

Mr. Leal: We're dealing with subsection 40(2.1) of the bill. I move that section 40 of the bill be amended by adding the following subsection:

“Exemptions

“(2.1) A regulation under clause (1)(r) shall state the reasons for exempting the persons, organizations, buildings, structures or premises or classes thereof, described in the regulation, from the application of the provisions specified in the regulation.”

Mr. Jackson: Is there any responsibility to publicize the exemptions?

The Chair: Does anyone wish to answer? If not, please proceed, Mr. Jackson.

Mr. Jackson: Your treatment of exemptions and mine are quite different, because I indicate that we need to let the public know when we make a decision, and in the case of a government agency or someone—I just don't want these secret, behind-the-door deals where someone comes to the minister and says, “Look, we want an exemption.” That happens. Someone has to be on the hook to say, “I've applied for an exemption.” I don't want to give this away as a gift, and that it isn't given the light of day. That's what I was trying to achieve here. You're accepting and acknowledging that we should state the reason for the exemption, but that could be because it was requested, and we never know who requested it. That's the reason.

Ms. Wynne: We heard people asking for more transparency around exemptions, and what we're saying is that those reasons have to be made clear by the government, so that everyone can understand how and why the exemption has been made and the possible reasons that an exemption could be made.

Mr. Marchese: When we bonded together in 2001, their language was that we would consult with the barrier-free council. It doesn't go all the way.

Mr. Leal: It's rebonding.

Mr. Marchese: No, it's like a new bond.

This does make the minister accountable should they make exemptions, so I think it's better than nothing.

The Chair: Further debate? If there's none, I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Opposed? None. The amendment carries. Page 102, Mr. Jackson.

Mr. Jackson: I move that section 40 of the bill be amended by adding the following subsection:

“Opportunity for comments

“(2.2) The Lieutenant Governor in Council shall not make a regulation under subsection (1) until it has published a draft of it in the Ontario Gazette and allowed interested persons a reasonable opportunity to make comments on the draft to the Accessibility Directorate of Ontario.”

That was a specific ODA request.

The Chair: Any debate?

Mr. Ramal: We have no problem accepting this motion, if Mr. Jackson would like to give a period of time—45 days—and that it be put on the government Web site. You have the amendment we're going to submit in a few seconds.

Mr. Jackson: Oh, I see what you're saying. OK.

Mr. Marchese: So you would support this with an amendment?

Mr. Ramal: Yes, of course. We'll withdraw his and we can add—

Mr. Marchese: You have an amendment, right?

The Chair: Mr. Jackson, would you be willing to withdraw it?

Mr. Jackson: Yes, that would be fine.

The Chair: Page 102 has been withdrawn.

Page 102a, Mr. Ramal.

1740

Mr. Ramal: I move that section 40 of the bill be amended by adding the following subsections:

“Draft regulation made public

“(2.2) The Lieutenant Governor in Council shall not make a regulation under subsection (1) unless a draft of the regulation is made available to the public for a period of at least 45 days by posting it on a government Internet site and by such other means as the minister considers advisable.

“Opportunity for comments

“(2.3) Within 45 days after a draft regulation is made available to the public in accordance with subsection (1), any person may submit comments with respect to the draft regulation to the minister.

“Changes to draft regulation

“(2.4) After the time for comments under subsection (2.3) has expired, the Lieutenant Governor in Council may, without further notice, make the regulation with such changes as the Lieutenant Governor in Council considers advisable.”

The Chair: Is there any debate on the motion? If none, I will then put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Jackson, Leal, Marchese, Ramal, Wynne.

The Chair: Everybody supports it and the section carries.

I'll take a vote on the entire section. Shall section 40, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? The section carries.

Section 40.1 is a new one. Page 103.

Mr. Jackson: I'm going to table the one on page 104. I move that the bill be amended by adding the following section:

“Review of act

“40.1 Within three years of the day this act comes into force and every three years thereafter, the executive council shall appoint a person to conduct a review of this act.

“Consultation

“(2) A person conducting a review under this section shall consult with the public and, in particular, with persons with disabilities.

“Report

“(3) The person conducting the review shall prepare a report with respect to the effectiveness of this act and the accessibility standards in identifying, removing and preventing barriers to persons with disabilities and setting out recommendations for improving this act and the accessibility standards.

“Same

“(4) The person conducting the review shall submit his or her report to the minister who shall cause the report to be laid before the assembly if it is in session or, if not, at the next session.”

Briefly, the previous legislation caused a review every five years in perpetuity. There was nothing in the original draft. I'm pleased that the government has subsequently tabled an amendment. ODAC has also recommended that we consider a review. The idea of three years comes as a result that there will be a review in the life of each majority government in the province's future. With a four-year review it's quite possible that the review and its subsequent findings will occur outside of the period between two provincial elections, by definition. Rather than opting for four or five years, if the government is successful in bringing in its elections every four years, then three years will allow the disability community to have a report that can underscore and bring the light of day on those issues that are falling behind badly during the course of any future government. That's why I tabled that motion.

Mr. Marchese: I support it.

The Chair: Any further debate? If there's none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry. Page 103 has not been moved, so it is a new section and there is no vote to be taken.

We go to the next section, 40.1.

Mr. Ramal: I want to withdraw the motion we have here and table a different one that I will read.

I move that the bill be amended by adding the following section:

“Annual report

“40.1(1) The minister shall prepare an annual report on the implementation and effectiveness of this act.

“Content of report

“(2) The report shall include an analysis of how effective the standards development committees, the accessibility standards and the enforcement mechanisms provided for under this act are in furthering the purpose of this act.

“Tabling of report

“(3) The minister shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the assembly if it is in session or, if not, at the next session.”

The Chair: Is there any debate?

Mr. Jackson: I would like to know why the government has abandoned the four-year review. You’ve just voted down a three-year review.

Mr. Ramal: We separated them.

Mr. Jackson: Is that the end of it, or are you going put it in another section?

The Chair: It’s the next motion.

Mr. Jackson: OK. I’ve got three government amendments here. Is it the 105b sheet or is it—

Mr. Ramal: We separated them and we’re going to read the second motion after we vote on this one.

The Chair: He is only asking which page it is.

Mr. Ramal: It’s 102a—I’m sorry. It’s not numbered, actually. It’s section 40.1 of the bill. We’ll call it 105a.

The Chair: OK. Any further debate? If there is no further debate, I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Marchese, Ramal, Wynne.

The Chair: Those opposed? None. The amendment carries.

Mr. Ramal, you still have the floor.

Mr. Ramal: I move that the bill be amended by adding the following section to the bill:

“Review of act

“40.2(1) Within four years after this section comes into force, the Lieutenant Governor in Council shall, after

consultation with the minister, appoint a person who shall undertake a comprehensive review of the effectiveness of this act and the regulations and report on his or her findings to the minister.

“Consultation

“(2) A person undertaking a review under this section shall consult with the public and, in particular, with persons with disabilities.

“Contents of report

“(3) Without limiting the generality of subsection (1), a report may include recommendations for improving the effectiveness of this act and the regulations.

“Tabling of report

“(4) The minister shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the assembly if it is in session or, if not, at the next session.

“Further review

“(5) Within three years after the laying of a report under subsection (4) and every three years thereafter, the Lieutenant Governor in Council shall, after consultation with the minister, appoint a person who shall undertake a further comprehensive review of the effectiveness of this act and the regulations.

“Same

“(6) Subsections (2), (3) and (4) apply with necessary modifications to a review under subsection (5).”

The Chair: Any debate on the motion? If there is none, I will now put the question. Shall the motion carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? None. The motion carries.

We go to section 41, which is Mr. Jackson, page 106.

Mr. Jackson: I move that section 41 of the bill be amended by adding the following subsection:

“Same

“(3) The Lieutenant Governor shall not issue a proclamation repealing a provision of the Ontarians with Disabilities Act, 2001 until all the accessibility standards relating to the subject-matter of that provision have been established under this act.”

This is a direct request of the ODA committee—they were very adamant—and it is the undertaking we have heard from both the minister and the bureaucrats. So I suspect that this will get passed.

The Chair: All right. Any comments on the motion? If none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Shall section 41 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? Section 41 carries, with no amendments.

Section 42: Mr. Jackson, page 107, please.

Mr. Jackson: I move that section 42 of the bill be struck out and the following substituted:

“Commencement

“42. This act comes into force on the day it receives royal assent.”

The Chair: Is there any debate on the motion? If none, I will now put the question.

Ayes

Craitor, Fonseca, Jackson, Leal, Marchese, Ramal, Wynne.

The Chair: Compliments, Mr. Jackson. The motion carries.

Mr. Ramal, page 108.

Mr. Ramal: I move that section 42 of the bill be struck out and the following substituted:

“Commencement

“42. This act comes”—

The Chair: Mr. Ramal, I’m told it’s identical, and therefore there’s no point. Should we remove, then, 108?

Mr. Jackson, it’s back to your 109, please.

Mr. Jackson: I move that subsection 42(2) of the bill be struck out and the following substituted:

“Same

“(2) Sections 1 to 41 come into force on the earlier of,

“(a) a day to be named by proclamation of the Lieutenant Governor; and

“(b) the day that is six months after the day this act receives royal assent.”

The Chair: Any comments? If none, I will now put the question. Shall the motion carry?

Ayes

Jackson, Marchese.

Nays

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: The motion does not carry. Shall section 42, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Section 42 carries.

Shall section 43 carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? Section 43 carries.

Shall the title of the bill carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? It carries.

Shall Bill 118, as amended, carry?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

The Chair: Those opposed? It carries.

Shall I report the bill, as amended, to the House?

Ayes

Craitor, Fonseca, Leal, Ramal, Wynne.

Mr. Marchese: I’m sure we need to report it.

Mr. Jackson: I think we should.

The Chair: OK. All in favour, I hear.

Before we leave, I want to say thank you to staff for pulling with us for so many hours and days, all of you. I also want to say thank you to those people who came to talk with us here. Your contribution is very much appreciated. I also want to say thank you to all the members. I want to say thank you for helping us, as you did, to make this bill what it is. We haven’t finalized it yet, but we have at this level. A compliment to Mr. Jackson, who I know is very much interested; Mr. Marchese, with his social conscience; and the government side, with all those nice recommendations and suggestions. All of us have done a good job. I thank you all. Good night.

The committee adjourned at 1754.

CONTENTS

Tuesday 12 April 2005

Accessibility for Ontarians with Disabilities Act, 2005, Bill 118, Mrs. Bountrogianni /
Loi de 2005 sur l'accessibilité pour les personnes handicapées de l'Ontario,
projet de loi 118, M^{me} Bountrogianni SP-925

STANDING COMMITTEE ON SOCIAL POLICY

Chair / Président

Mr. Mario G. Racco (Thornhill L)

Vice-Chair / Vice-Président

Mr. Khalil Ramal (London–Fanshawe L)

Mr. Ted Arnott (Waterloo–Wellington PC)

Mr. Ted Chudleigh (Halton PC)

Mr. Kim Craitor (Niagara Falls L)

Mr. Peter Fonseca (Mississauga East / Mississauga-Est L)

Mr. Jeff Leal (Peterborough L)

Mr. Rosario Marchese (Trinity–Spadina ND)

Mr. Mario G. Racco (Thornhill L)

Mr. Khalil Ramal (London–Fanshawe L)

Ms. Kathleen O. Wynne (Don Valley West / Don Valley-Ouest L)

Substitutions / Membres remplaçants

Mr. Cameron Jackson (Burlington PC)

Also taking part / Autres participants et participantes

Ms. Katherine Hewson, acting assistant deputy minister,
Ministry of Citizenship and Immigration

Clerk / Greffière

Ms. Anne Stokes

Staff / Personnel

Ms. Sibylle Filion, legislative counsel