

MUNICIPAL FIRE and POLICE  
BINDING ARBITRATION STAKEHOLDER COMMITTEE  
**REPORT to the MINISTER**  
**of Post-Secondary Education**  
**Training and Labour**

June 5, 2020

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## **Note from the Chair**

In New Brunswick, as in all of Canada, unionized municipal fire and police officers are not permitted to strike nor are their municipal employers permitted to lock those employees should an impasse occur during collective bargaining. Binding interest arbitration is the final dispute resolution process.

To provide interested parties with an enhanced consultative process for discussing amendments proposed by Government that would affect provisions in the *Industrial Relations Act* on binding arbitration, Minister Holder constituted the Municipal Fire and Police Binding Arbitration Stakeholders Committee. The Committee was to meet, discuss the amendments and report its findings to the Minister.

The stakeholder groups chose fifteen members, seven who represented cities, towns and smaller municipalities and eight who represented their fire and police employees. All well understood the importance of this consultative process and the consequences its findings might have on further action by Government. All were knowledgeable, experienced labour and management practitioners who worked diligently to represent their constituents.

I wish to thank the members of this stakeholder committee for their efforts and particularly to thank the two francophone members who graciously permitted all correspondence, emails and meetings to be conducted only in English.

It was an honour to chair this stakeholder group.

Rick Merrill

Chair

## **EXECUTIVE SUMMARY**

Government introduced legislative amendments to binding arbitration, the final dispute resolution process for municipal fire and police collective bargaining. In the interest of cooperation and consultation, The Municipal Fire and Police Binding Arbitration Stakeholders Committee was constituted by Minister Trevor A. Holder. The Committee met to discuss the proposed amendments and report its findings to the Minister. The findings follow:

Municipal stakeholders began this consultation from the position that the proposed amendments in Bill 13 are necessary and the Bill should proceed unchanged through the legislative process. Fire and Police stakeholders began this consultation from the position that the proposed amendments in Bill 13 are not needed and the Bill should not advance.

This consultation process ended with those opposing positions unchanged with each side holding a different perspective on the current situation.

Municipal stakeholders argue that binding arbitration is a flawed and imbalanced process, leading to unsustainable wage increases for fire and police employees and the amendments proposed in Bill 13 are needed to correct that flaw. Fire and Police stakeholders argue the opposite, claiming the current process of binding arbitration is fair and has worked for forty years to appropriately compensate police and fire officers. Fire and Police stakeholders also claim that the proposed amendments would make worse any problems that do exist in the arbitration process as the new conditions that arbitrators would have to consider are not clearly defined in Bill 13.

An impasse was reached when the stakeholders were unable to agree on the need for the amendments in Bill 13 and were unable to agree to considering any other option. As they were also unable to agree on the need for continuing this consultation process, the consultation ended. Each stakeholder group is now expected to individually lobby Government and members of the Legislature in support of their position.

## **MEMBERS of the STAKEHOLDER COMMITTEE**

**Chair:** Rick Merrill

### **Members Representing Fire and Police:**

- New Brunswick Police Association (NBPA)
  - o Bob Davidson
  - o Duane Squires
- Atlantic Provinces Professional Fire Fighters Association (APPFFA)
  - o Glenn Sullivan
- International Association of Fire Fighters (IAFF)
  - o Larry Cook
- Canadian Union of Public Employees (CUPE)
  - o Mike Davidson
  - o Marcos Salib
- Atlantic Canada Regional Council of Carpenters and Allied Workers (ACRC)
  - o Dave Mombourquette
- Fredericton Police, ACRC Local 911
  - o Sean Clark

### **Members Representing New Brunswick Municipalities:**

- Cities of New Brunswick Association
  - o Jane Blakely
  - o Barbara Russell
  - o Stephanie Hossack
  - o Laurann Hanson
- l'Association francophone des municipalités du Nouveau-Brunswick
  - o Marc-André Godin
- Union of the Municipalities of New Brunswick
  - o John Jarvie
- Pierre Bertrand (speaking on behalf of the Cities Association of New Brunswick in partnership with l'Association francophone des municipalités de Nouveau Brunswick and the Union of Municipalities of New Brunswick).

## **SUMMARY OF THE CONSULATION PROCESS**

- The New Brunswick *Industrial Relations Act* provides binding interest arbitration as the final dispute resolution process in municipal fire and police collective bargaining. No unionized fire fighter and no unionized police office is permitted to strike. No municipal employer is permitted to lock-out those employees. Instead, binding arbitration is used to settle the dispute.
- In November 2019, Government introduced Bill 13, an Act to Amend the *Industrial Relations Act*. The Act proposes changes to the process of binding arbitration in municipal fire and police collective bargaining.
- Bill 13 was referred to the Standing Committee on Law Amendments.
- To provide interested stakeholders with a consultative process through which to discuss the proposed amendments and its possible effect on municipal fire and police binding arbitration, The Municipal Fire and Police Binding Arbitration Stakeholders Committee was constituted by Minister Holder.
- The Stakeholder Committee was to meet, discuss the issue then report its findings to the Minister. Minister Holder would table the report to the Legislature for referral to the Standing Committee on Law Amendments.
- The Chair was assigned.
- The stakeholder groups were contacted and asked to name their members to the Committee. Seven members were chosen to represent New Brunswick Cites, Towns, smaller municipalities and francophone municipalities. Eight members were chosen to represent Fire and Police employees, their associations and their unions.

- The Committee, with the permission of its two francophone members, agreed to conduct all business only in English.
- The Committee met on two occasions, on February 18 and on May 28 (the second meeting set for March 16 was postponed due to Coronavirus).
- The February meeting provided a forum for the parties to discuss the presentation made by the Municipalities to Government and the amendments proposed in Bill 13.
- Each side presented their perspective on the current process of binding arbitration. Those perspectives differed.
- Municipal stakeholders argued that binding arbitration is a flawed and imbalanced process, leading to unsustainable wage increases for fire and police employees and the amendments proposed in Bill 13 are needed to correct that flaw.
- Fire and Police stakeholders argued the opposite, claiming the current process of binding arbitration is fair and has worked for forty years to appropriately compensate police and fire officers.
- Each side presented their view regarding the affect the proposed amendments might have collective bargaining in general and binding arbitration specifically. Those views also differed.
- Fire and Police stakeholders claimed that the proposed amendments would make worse any problems that do exist in the binding arbitration process as the new conditions that arbitrators would have to consider are not clearly defined or understood.

- Municipal stakeholders argued that the proposed new conditions that arbitrators would have to consider will be defined through future binding arbitration processes and the decisions rendered by arbitrators, both here in New Brunswick and in Ontario as Ontario uses the identical language in its binding arbitration process for fire fighters.
- The May meeting provided members with the opportunity to discuss options to the amendments proposed in Bill 13.
- Representatives from both sides of the committee felt that other changes to *Section 80* of the *Industrial Relations Act* could be considered, such as adding an agreed-to roster of arbitrators, a pre-set fee structure for arbitration hearings, a set maximum number of hearings allowed, and a process for the establishment of a permanent stakeholder group.
- The members representing Fire and Police wanted the Committee to continue discussions on those other possible changes to the *Industrial Relations Act* with the understanding that Bill 13 would be scrapped (or substantially amended).
- The Municipal members wanted any discussion on other possible changes to the *Industrial Relations Act* to happen only after Bill 13 became law.
- The Fire and Police stakeholders wanted the consultation process to continue while the Municipal stakeholders saw no value in continuing a discussion when both sides were firm in their position and no common ground existed.
- The parties were deemed to be at impasse and advised that no additional meetings would be scheduled and that final submissions for inclusion into the report should be provided to the Chair.
- The report was submitted.