

Standing Committee on
Government Operations



Report on Bill 66: An Act to Amend the Property Assessment and Taxation Act

19th Northwest Territories Legislative Assembly

Chair: Mr. Rylund Johnson

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February 27, 2023

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Government Operations is pleased to provide its *Report on Bill 66: An Act to Amend the Property Assessment and Taxation Act* and commends it to the House.



Mr. Rylund Johnson
Chair, Standing Committee on Government Operations

**STANDING COMMITTEE ON
GOVERNMENT OPERATIONS**

Report on Bill 66:

An Act to Amend the Property Assessment and Taxation Act

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STANDING COMMITTEE ON GOVERNMENT OPERATIONS REPORT ON BILL 66: AN ACT TO AMEND THE PROPERTY ASSESSMENT AND TAXATION ACT

INTRODUCTION

Bill 66: *An Act to Amend the Property Assessment and Taxation Act*¹ (Bill 66) received second reading on November 3, 2022, and was referred to the Standing Committee on Government Operations (Committee) for review.

Bill 66 makes changes to the *Property Assessment and Taxation Act* (*Act*). The changes address known issues specific to the assessment side of the *Act*, based on suggestions from stakeholders to the Department of Municipal and Community Affairs (MACA). Specifically, Bill 66:

- Streamlines certain administrative and operational process to make things more efficient without changing the overall intent of the *Act*;
- Clarifies and modernizes terminology; and
- Ensures that the legislative framework supports a fairer, more effective system.²

Bill 66 is the first of two planned pieces of legislation to amend the *Act*. Phase two will deal with more complex taxation and authorities' issues. Public comments from MACA appear to imply that a second bill will not come forward until the 20th Assembly.³ Committee is disappointed with this apparent delay, as MACA had previously committed to bringing forward a second bill in the life of the 19th Assembly. The *Act*, which has not been comprehensively reviewed since it was first passed in 1988, urgently requires modernization. Committee hopes MACA will prioritize the second bill and bring it forward as soon as possible.

COMMITTEE CONSIDERED PUBLIC INPUT

Committee sought public feedback on Bill 66 with a public notice and targeted engagement letters. Committee received written submissions from:

- The Northwest Territories Association for Communities (NWTAC); and
- The Northwest Territories Métis Nation (NWTMN).

All written submissions are included in an Appendix to this report.

Committee also held a public review of Bill 66 on January 23, 2023.⁴ At that meeting,

Committee heard remarks from Minister of MACA, asked questions to departmental officials, and received oral comments from the NWTAC and the NWTMN. Committee thanks the NWTAC and the NWTMN for their engagement. Their participation helped Committee identify amendments to improve the bill and highlighted other key issues for future consideration.

Committee also wishes to highlight a concern raised by the NWTMN. The NWTMN indicated that they have asked for discussions with the Government of the Northwest Territories (GNWT) to amend the *Act* to exempt Indigenous Métis rights-based cabins from taxation. However, the NWTMN reports that discussions have not taken place. Committee strongly encourages the Department to engage with all Indigenous Governments on the phase two changes to the *Act*.

COMMITTEE AMENDED THREE CLAUSES

Requiring tribunal decision within three months

Clause 18 of Bill 66 proposed an operational change so appeals would be resolved in a timelier manner. Specifically, the clause would have required the Assessment Appeals Tribunal (Tribunal) to sit within three months of the Territorial Board of Revision's decision.

Committee wanted to see this clause go further. While the clause set a time limit for the Tribunal to sit, it did not set a timeframe for the Tribunal to render a decision. The clause also falls short of the NWTAC's advocacy on the issue. NWTAC Resolution 21-98-12 urges:

*"That the Tribunal be granted a period of no more than six months from the time of the deadline of appeals during which it must rule on said appeals."*⁵

Committee sought an amendment that would reflect the NWTAC's resolution. MACA accepted this request, drafting a motion to drop clause 18 of Bill 66 and to add subclause 19.1 to the bill. The new subclause requires the Tribunal to make a decision within three months of receiving a notice of appeal.

Committee was satisfied with the changes and agreed to pass the amending motion at the clause-by-clause review.

Publishing ministerial orders that vary timelines

Section 112 of the existing *Act* allows the Minister to vary any deadline with an order. Two of the new deadlines introduced in the amended Bill 66 are:

1. The Territorial Board of Revision must give a decision by March 31 on complaints in the previous 12 months; and
2. The Assessment Appeals Tribunal must give a decision within three months of receiving a notice of appeal.

Committee was concerned that ministerial orders to vary these deadlines may not be sufficiently transparent to the public. The existing *Act* does not expressly require variation orders to be public – though they are registered and published in the next monthly issue of the Northwest Territories Gazette, which is publicly available.

Committee sought an amendment to require variation orders to be made public without delay. MACA accepted this request and drafted a corresponding motion. The motion split section 112 into two subsections: Subsection 112(1) retained the language of the existing section 112. Subsection 112(2) required any variation order to be published on the department’s website within five days. Committee was satisfied with the amendment and approved the motion at the clause-by-clause review.

Requiring public approval for purchases by municipal council members, officers, and employees

Clause 22 of Bill 66 reverses the current ban on council members, officers, and employees in the six municipal taxing authorities to purchase taxable property offered for sale at a municipal public auction.

While supporting the intent of clause 22, the NWTAC explained that more detail in the clause would be beneficial. The NWTAC was concerned that municipalities may have difficulty interpreting the clause as it was drafted.

Committee sought an amendment to clause 22 to specify what it means for the council to provide “prior approval” for a purchase. Committee wanted to ensure that Council’s decision to approve would be made public and that Council had more legislative guidance when granting approval.

MACA accepted Committee’s request and drafted a motion to amend. The amendment added subclause 97.81(1.1), which requires Council’s approval to be made by resolution and to be recorded in the minutes of the meeting at which the approval was given.

Committee was satisfied that this addition provided sufficient legislative guidance to municipalities and agreed to pass the motion with the amendment. Committee believes these requirements for public processes will support municipalities in managing the risk of potential conflicts of interest.

Further building on the NWTAC’s feedback, Committee asked that MACA commit to developing a guidance document covering Council approval for purchases by municipal

employees. Such a guidance document should include the options and best practices available to municipalities to address the potential for conflict of interest. MACA should consult the NWTAC in this work.

COMMITTEE SCRUTINIZED BOARD OF REVISION TIMELINE

Clause 15 of Bill 66 would require the Territorial Board of Revision to give a decision by March 31 on complaints in the previous 12 months. Committee was concerned about unworkable timelines – for example, if a complaint was made in mid- or late-March, the Board of Revision would only have a couple of weeks or days to give a decision. Committee considered putting forward an amendment that would define the deadline based on equal wait time.

MACA provided Committee with further explanation on the choice for the March 31 deadline. The assessment roll is generally finalized in October; afterwards, there is a certain amount of time for ratepayers to make complaints, then the roll needs to be revised. MACA projected that, in the vast majority of cases, the notice of assessment is provided by February 15th – and in most cases earlier than that. That provides enough time for the Board of Revision to give a decision by March 31. The Board of Revision also only meets once per year. MACA wanted to avoid convening multiple meetings. The March 31 date also ensures complaints are decided on within the same fiscal year, averting an impact on the property taxes a municipality can collect in the next fiscal year. Finally, MACA pointed out that if the March 31 deadline is not workable, section 112 of the existing *Act* allows the Minister to vary the date.

Committee accepted the department's explanation but brought forward and approved an amendment to ensure that, in the rare occasions that the Minister varies the deadline, the order would be made public without delay.

CONCLUSION

On February 13, 2023, Committee held a clause-by-clause review.⁶ Committee passed a motion to report Bill 66, as amended, to the Legislative Assembly as ready for consideration in Committee of the Whole.

This concludes the Standing Committee on Government Operations' review of Bill 66.

APPENDIX: Submissions

- A. NWT Association of Communities
- B. Northwest Territory Métis Nation

NOTES:

¹ Bill 66 is available at: https://www.ntassembly.ca/sites/assembly/files/bill_66_0.pdf.

² A plain language summary for Bill 66 is available at: https://www.ntassembly.ca/sites/assembly/files/tailed_document_797-192_-_maca_-_plain_language_summary_of_bill_66_an_act_to_amend_the_property_assessment_and_taxation_act.pdf.

³ At the January 23, 2023, public hearing, departmental officials reported their intention to produce a legislative proposal for phase two changes before the end of the 19th Assembly. A legislative proposal is document that allows Regular MLAs to review and provide advice on planned legislation before it is introduced as a bill in the Legislative Assembly. If the legislative proposal is only completed toward the end of the 19th Assembly, there would likely not be enough time remaining in the 19th Assembly to subsequently introduce, review, and approve a bill.

⁴ Video of the January 23rd, 2023, public review of Bill 66 is available at: <https://www.youtube.com/watch?v=p1vXrJPU2Nw>. The Legislative Assembly uploads video recordings of public meetings and other special events to its Youtube channel.

⁵ The NWTAC's Resolution 21-98-12, and MACA's response, is available at: <https://nwtac.com/wp-content/uploads/2022/01/2021-RESOLUTION-RESPONSES.pdf#page=114>.

⁶ Video of the February 13th, 2023, clause-by-clause review of Bill 66 is available at: <https://www.youtube.com/watch?v=1cU2-GMNQYk>.



**Bill 66 – An Act to Amend the Property Assessment
and Taxation Act**

NWT Association of Communities
Comments to the
Standing Committee on Government Operations
January 23, 2023

**Bill 66 – An Act to Amend the Property Assessment
and Taxation Act
Comments to the
Standing Committee on Government Operations
January 16, 2023**

The NWT Association of Communities, would like to thank the Standing Committee on Government Operations for providing us with the opportunity to comment on Bill 66 as it relates to the Property Assessment and Taxation Act.

The NWT Association of Communities

The NWTAC is a non-profit, non-governmental organization that represents the interests of 100% of NWT communities.

The NWT Association of Communities was formed in 1966 to represent the interests of municipal governments in the Northwest Territories. It provides a forum and unified voice for the aspirations of its members.

Our Vision:

“Working together to achieve all that our communities want to be”

Our Mission:

“To work together to serve our communities by addressing common issues, delivering programs and exchanging information. We are the unified voice for communities on municipal goals determined by our members.”

The NWTAC is pleased to see Phase 1 of the revisions to the Property Assessment and Taxation Act proceeding with the tacit understanding that Phase 2 will not be too far behind once the respective research and consultation is done. To this end, the intent today is to only comment on the proposed amendments and not highlight the outstanding resolutions that we understand will be addressed in Phase 2.

- We are pleased to see the ability to address the issue of minor corrections to the assessment role.**
- We are pleased to see a fixed time of 3 months after filing for a hearing to be held**
- With respect to clause 44.1, timing for a decision should be based on performance standards (say 3 or 6 months) and not a fixed point in time as proposed. We understand from MACA that they have already received some feedback to this effect. This has been an NWTAC resolution since 1998 and we appreciate it being addressed**

- **We appreciate the ability to appoint a sole adjudicator as this should improve timelines for decisions.**
- **We would like to see more detail on the clause 97.81 with respect to the participation of council members, officers and employees in municipal public taxation auctions.**

We appreciate that this work is Phase 1 of the needed revisions to the Property Assessment and Taxation Act and we are aware that the more complex amendments were deferred until Phase 2. We hope that this work will be tackled in a timely manner and not be left until the end of the next legislative assembly. Further we would recommend that the consultation for Phase 2 be combined with consultation for Senior Citizens and Disabled Persons Property Tax Relief Act.

In closing, we want to once again reiterate that we appreciate the opportunity to provide these comments to the Standing Committee on Government Operations on Bill 66 – An Act to Amend the Property Assessment and Taxation Act.

**MY COMMUNITY
MATTERS**



Northwest Territory Métis Nation

Presentation to the Standing Committee on Government Operations

Bill 66: Property Assessment and Taxation Act

January 23, 2023



Presentation Outline

- Background
 - Proposal for Next Phase of Amendments to the Act
 - Recognition of Rights-based Cabins
- United Nations Declaration on the Rights of Indigenous Peoples
 - Questions and Answers





Background

GNWT and NWTMN have a government-to-government relationship

A Memorandum of Understanding guides the parties in their work

Intent

- Mutual recognition of their respective governing authorities
- Commitment to develop working relations based on respect, recognition, responsibility and reconciliation
- Commitment to constructive collaboration and open, respectful communications



Background

NWTMN participates with GNWT and Indigenous Governments on co-developing legislation

Legislative Development Protocol guides this work

PATA is not part of these discussions



Proposal for Next Phase of Amendments to the Act

Legislation was passed in 1988

First phase of changes to address administrative and operational issues

NWTMN has asked for discussions with GNWT to amend the *PATA* to exempt Indigenous Métis rights-based cabins from taxation

Discussions have not taken place

NWTMN is disappointed the proposed amendments to the *PATA* will not address this critical issue



Recognition of Rights-based cabins

Indigenous Métis have a recognized aboriginal right to hunt, fish, trap and harvest plants and trees in its traditional territory under section 35(1) of the *Constitution Act, 1982*

The right to construct or occupy a cabin on land is incidental to the exercise of NWTMN aboriginal rights

Taxation of traditional use cabins adversely affects aboriginal rights of the NWTMN in direct contravention of section 3 of the *PATA*

3. Nothing in this Act shall be interpreted so as to affect aboriginal rights



Recognition of Rights-based cabins

Primacy of the *Constitution of Canada*

The *PATA* is inconsistent with section 35
aboriginal rights

*52(1) The Constitution of Canada is the
supreme law of Canada , and any law that is
inconsistent with the provisions of the
Constitution is, to the extent of the inconsistency,
of no force or effect*



United Nations Declaration on the Rights of Indigenous Peoples

Implementing UNDRIP requires GNWT to give legal recognition of cabins used and owned by Indigenous Métis

Article 26

Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired

Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired

States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned



Proposed change

The *PATA* needs to be amended to exempt Indigenous Métis rights-based cabins from property taxation, in conformity with UNDRIP.



Questions?



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