

**ONTARIO LEGISLATIVE COMMITTEE SEEKS TO IMPROVE FINANCIAL TRANSPARENCY AND ACCOUNTABILITY**

*You have it within your power as legislators, within your power as the Legislature, to do this stuff... The Legislature is to hold the government to account.* Peter Weltman, Ontario Financial Accountability Officer.

The new Ontario government launched a legislative inquiry to improve financial transparency and accountability . What has the committee learned, and what lessons might it provide for B.C.?

**Background**

In the June 2018 election the Ontario Liberal party under Premier Kathleen Wynne was crushed, winning only seven seats. The Progressive Conservatives under Doug Ford formed government with 76 seats while the NDP formed the official opposition with 40 seats.

One of the first acts of the newly elected government was to establish an independent commission to review the government's finances. The previous Liberal government had forecast a \$6.7 billion budget deficit before the election, while the independent financial accountability officer and the auditor general stated that the deficit was much higher. Auditor General Bonnie Lysyk objected to the accounting treatment of a pension surplus and the "Fair Hydro Plan," which reduced electricity rates by 25% during the run-up to the election. At issue was the Liberal government's use of a legislated regulatory deferral account designed to hide an increase to the province's deficit and the debt.

Chaired by former B.C. premier Gordon Campbell, the commission agreed with the auditor general's opinion on the Fair Hydro Plan financing and on her interpretation of the accounting for a pension surplus.<sup>1</sup> As a result, the commission stated that the appropriate deficit forecast for 2018/19 was \$15 billion. The new government accepted the recommendations of the independent commission and revised the 2017/18 year-end financials and the 2018/19 forecast.<sup>2</sup>

**Legislative Committee on Financial Transparency**

Not content with accepting the recommendations of the independent commission, the Ontario government established a legislative committee to review the accounting issues

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<sup>1</sup> <https://www.fin.gov.on.ca/en/report/ifci-2018.pdf>

<sup>2</sup> <https://www.theglobeandmail.com/canada/article-ontario-deficit-at-15-billion-this-year-pcs-say-not-67-billion/>  
Former premier Wynne believes the \$15 billion forecast is inflated to give the Ford government an excuse to cut social programs; <https://www.theglobeandmail.com/canada/article-hard-to-watch-former-premier-kathleen-wynne-reflects-on-life-in/>

involved in the pension and Fair Hydro conflicts between the government and the auditor general, and to recommend ways to improve financial transparency.<sup>3</sup>

During a series of meetings in October the committee questioned key individuals to determine how the former government sought to obfuscate the true financial picture. This questioning of legislative officers and senior public servants by a legislative committee is relatively rare. The normal public accounts committee reviews are generally mild affairs focused on the previous year's expenditures and revenues. This special committee was more free-ranging and was given access to cabinet briefing notes and other normally confidential documents.

Progressive Conservative members were clearly seeking to discredit the former Liberal government and displayed some suspicion of the deputy ministers who were involved in creating and launching the Fair Hydro Plan. The questioning of the independent commissioners and the independent legislative officers was much more sympathetic.

### **Key Findings**

- 1) Governments must respect the independence of the legislative officers, such as the auditor general and the financial accountability officer. Questioning their objectivity and expertise weakens the public's trust in government.
- 2) There is no magic bullet to improving government financial transparency. The financial accountability officer had some suggestions, but generally believed that the current model was working well. Auditor General Lysyk emphasized that only she can opine on the accounting of the consolidated statements, and opinions of external consultants (such as KPMG) are of little consequence.
- 3) Financial transparency and accountability in B.C. would be enhanced if the government created an independent financial accountability office modeled on the Ontario office.
- 4) More openness between the government and the auditor general is necessary, with the understanding that the auditor general's opinion on the financial statements is the only opinion that matters. Ms. Lysyk cited the implementation of the Fair Hydro debt deferral scheme as an example of the lack of dialogue that occurred in Ontario. Her office was not consulted during the concept stage, nor during the detailed design.
- 5) Be suspicious if the board and senior staff of an agency seek special indemnification. The auditor general discovered that the IESO board and senior staff sought and received a special indemnification from the minister of energy related to the implementation of the Fair Hydro Plan.

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<sup>3</sup> The committee is comprised of six Progressive Conservative MPPs (four being parliamentary assistants to ministers) and three NDP MPPs, including the deputy leader and the financial critics;  
<https://www.ola.org/en/legislative-business/committees/financial-transparency/parliament-42/members>

- 6) The B.C. government should resurrect the legislative committee on Crown corporations to review both service plans and actual results.

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The writer is a retired senior BC government public servant whose paper describing the BC government's manipulation of the finances of BC Hydro from 2008 to 2014 was published by *BC Studies* in November 2016. *BC Studies* published his paper on the 40-year financial history of ICBC in 2013. He has been an intervener in the BC Utilities Commission's recent reviews of both ICBC's and BC Hydro's rate requests

## ATTACHMENT

### HIGHLIGHTS of HEARINGS of the LEGISLATIVE COMMITTEE on FINANCIAL TRANSPARENCY

#### **Auditor General Bonnie Lysyk (October 15, 2018)**

[https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/15-OCT-2018\\_FT003.pdf](https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/15-OCT-2018_FT003.pdf)

On the issue of the Liberal government saying that major audit consulting firms (such as KPMG) support the government approach?

Lysyk: *KPMG never did any work on the government's consolidated financial statements. They were put out there as if their view applied at the consolidated level, and that's not the case. There isn't one document I've seen that says KPMG had an opinion at the consolidated level.... The term "audit opinion": There would only be one audit opinion on the government's statements, and that's ours, or mine. (p.20) Note: KPMG's consulting contract was for \$700,000.*

Challenge the legitimacy of the Office of the Auditor General.

Lysyk: *I think that putting that out in the public forum and confusing everybody about what the role of the Auditor General's office is, and what private sector firms do, is a challenge to an independent institution. That is where it becomes serious.... If you start challenging this kind of institution, then I don't know where you go, believing that things are right or wrong.*

*That would be the same with other similar types of functions in the democratic process. (p. 48)*

Were the Liberal government's accounting actions beyond the norms of other governments?

*Lysyk: Yes.... It's very rare that you get into a situation like the Fair Hydro Plan. That one, for my colleagues across Canada, would be considered extremely unique. (p. 20)*

What was the purpose of the October 2017 special report on the Fair Hydro Plan?

*Lysyk: So it was important that we put out a report that would highlight some of that situation that was happening, because it was highly unusual, it was the wrong accounting and it was being designed to be the wrong accounting. So we issued a public report. (p.22) .... when I went to the justice committee on the Fair Hydro Plan and the bill still went through, even after going there and saying, "This is legislated accounting; this is wrong," you recognize that the government obviously wanted to do legislated accounting. (p. 23)*

*If we were private sector auditors in this situation, we would leave our client. But unfortunately, we couldn't leave our client, so we issued qualifications— (p.28)*

How did you learn that board members and senior officials sought and received legal indemnification?

*Lysyk: ...we became aware of the indemnifications when we were conducting our own attest audit of IESO. That document was among some of the records that were provided to us. (p. 25)*

Was the legislature and the public lied to by omission?

*Lysyk: On the Fair Hydro Plan, yes. (p27)*

Was the Fair Hydro accounting designed to keep the increased debt off the books?

*Lysyk: We believe that the accounting design was put in place to keep the impact off of the bottom line and net debt from not going on the balance sheet, yes. (p. 28)*

### **Deputy Ministers Testimony (October 16, 2018)**

[https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/16-OCT-2018\\_FT004.pdf](https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/16-OCT-2018_FT004.pdf)

Before Election

Current Position

Steve Orsini	Sec. to Cabinet	Same
Serge Imbrogno	DM Energy	DM Environment
Scott Thompson	DM Finance	DM Transportation
Karen Hughes	ADM Tres. Board	Act. DM Tres. Board

Most of the committee’s questions were directed to Mr. Orsini and Mr. Imbrogno as they were the key deputies involved in the Fair Hydro scheme. In September 2016 the government announced that electricity rates would be reduced by 8% as the cost of the provincial sales tax would be transferred to the taxpayer (government). In November the Premier said that the tax rebate was not enough, and the public service was directed to develop more options to reduce the rates further.

Mr. Imbrogno said that in early December the chief of staff to the energy minister told him to work up a plan to use a deferral account to reduce rates in the short term and not impact the province’s debt target. At this time the Liberal government was still claiming it would achieve a balanced budget for fiscal year 2016/17.

The deputies adopted the SODDI (some other dude did it) defense.

Mr. Imbrogno said that the ministry staff were “shocked” by the proposal.

*I would say we were a bit shocked, because it was pushing out costs today to future ratepayers, so it was something that we had to get our minds around. (p. 55)*

*Because it would have been a large amount—because to do any rate relief requires a large amount—and it just felt like you were pushing out costs to future ratepayers. It felt like an amortization.*

*We had just spent 10-plus years paying down the stranded debt, and this felt a bit like we were reintroducing the concept of stranded debt. (p. 58)*

Ms. Catherine Fife (NDP) asked a fundamental question:

“The strategy is embedded right in this document. They understand they have a political problem. They have high hydro costs, the 8% isn’t cutting it, and they need to reduce it by 25%, and they understand that. They’re willing to risk the financial risk of pushing all of this debt to future ratepayers.

So I guess my question to all of you is: Whose job is it at this point in time to say to the Premier—Premier Kathleen Wynne—or the minister at the time, who would be Minister ...Thibeault: “This is a fiscally irresponsible, somewhat irrational strategy which doesn’t even conform with standard accounting requirements.” Whose job is it at this point to say that to the people who are making very political and fairly partisan decisions?” (p.59)

Mr. Steve Orsini:

*So if I can speak to that: The Cabinet Office note summarizes all of the feedback that the public service has given on this particular issue. You referenced one quote; there are a number of quotes here where we express serious concerns about the approach being taken because we had no way of determining whether it was even feasible. It required legislation.*

*It's the government prerogative to set policy and it's our obligation, if we think there are concerns, to identify those concerns and also to say if there are ways to mitigate those concerns. (p. 59-60)*

Ms. Catherine Fife:

*“Do you have any rights, as a bureaucrat, to say to the Premier, “This is irresponsible. It crosses fiscally responsible lines, accounting treatments, accounting practices and even the legality of it”? This is an important piece. You understand that this committee is supposed to change the practice going forward.”*

Mr. Steve Orsini:

*I can say categorically that we did—I did and others have done—express serious concerns about this approach. I can say that categorically....  
The government of the day heard and acknowledged my concerns and serious concerns by others as well, and said that, in their view, the objective of providing rate relief superseded the concerns that we had and that I had. (p. 61)*

The head of the public service said he had “significant and substantial concerns” about the design of the legislated regulatory account to disguise the increase in debt, and the additional borrowing cost. (p. 64)

Mr. Orsini describes the role of the public service: speaking truth to power.

*We respect the democratic process. We respect the policy-making authority of the government of the day. We have a role to play to make sure they do so with their eyes wide open and that we follow the laws.  
Nothing unlawful under our watch would be pursued. We have to be able to ensure that we've given them our best advice, but they have their elected authority to set policies. So there's that interface between government setting policy and the public service speaking truth to power, but also then implementing government policy. (p.66)*

**Independent Commission of Inquiry Testimony (October 22, 2018)**

[https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/22-OCT-2018\\_FT005.pdf](https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/22-OCT-2018_FT005.pdf)

The questioning of the commissioners was wide-ranging and unfocussed. In essence, the commission supported the findings of the auditor general and the financial accountability officer.

Mrs. Robin Martin:

Okay, and is there anything that concerned you the most about these findings? ... You mentioned transparency, Mr. Campbell. Is that the issue that was the number one concern for you?

Mr. Gordon Campbell:

*That's my number one concern, because you get to make the choices you make in government, and the key is that the public gets to make their choice of whether they want you to stay government or not after you've made those choices, right? (p.79)*

*As we say, transparency, for us, at least in this commission, was paramount. The question is, are you being as transparent as you can? Are people understanding what their short-term and their long-term obligations are that the government has taken on? (p. 80)*

### **Financial Accountability Office (October 23, 2018)**

[https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/23-OCT-2018\\_FT006.pdf](https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2018/2018-10/23-OCT-2018_FT006.pdf)

Peter Weltman is Ontario's Financial Accountability Officer (FAO). This is a non-partisan position which reports to the legislature.<sup>4</sup> In May 2017 the FAO released a report on the financial implications of the Fair Hydro Plan, which estimated the additional borrowing interest cost at \$4 billion versus the government borrowing the rate subsidy money directly.<sup>5</sup>

Mr. John Vanthof (NDP):

Okay. So the question is—and I'm hoping I'm going to get to where I really wanted to go. It was a case of the various parties [the Liberal government and the electricity agencies] presenting the information in the way that they thought was most advantageous to their goal. I don't want to speak for the committee, but hopefully the committee will agree with me: What we're looking for is a way that this doesn't happen again.... One

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<sup>4</sup> [https://theyee.ca/Opinion/2018/01/30/One-Step-Plan-Boost-BC-Accountability/?utm\\_source=daily&utm\\_medium=email&utm\\_campaign=300118](https://theyee.ca/Opinion/2018/01/30/One-Step-Plan-Boost-BC-Accountability/?utm_source=daily&utm_medium=email&utm_campaign=300118)

<sup>5</sup>

[http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional\\_paper\\_no\\_31\\_26\\_may\\_2017/pdf/occasional\\_paper\\_no\\_31\\_26\\_may\\_2017.pdf](http://www.bcpolicyperspectives.com/media/attachments/view/doc/occasional_paper_no_31_26_may_2017/pdf/occasional_paper_no_31_26_may_2017.pdf)

thing I will grant this committee: It's one of the most fulsome discussions we've had of this issue, and that's a shame.

Are there any recommendations you could make?

Mr. Peter Weltman:

*You have it within your power as legislators, within your power as the Legislature, to do this stuff.... The Legislature is to hold the government to account. There's nothing that we can do except provide you with best analysis that is, as I said, neutral, non-partisan, authoritative, but we weren't elected to do more than that. (p. 129)*

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