



Legislative Assembly of Alberta

The 30th Legislature
Third Session

Standing Committee
on
Private Bills and Private Members' Public Bills

Bill 202, Public Health (Transparency and Accountability)
Amendment Act, 2022

Tuesday, March 15, 2022
7 p.m.

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Third Session**

Standing Committee on Private Bills and Private Members' Public Bills

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Nixon, Jeremy P., Calgary-Klein (UC), Deputy Chair

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Also in Attendance

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Standing Committee on Private Bills and Private Members' Public Bills

Participant

Ministry of Health

Trish Merrithew-Mercredi, Assistant Deputy Minister, Public Health and Compliance

7 p.m.

Tuesday, March 15, 2022

[Mr. Rutherford in the chair]

The Chair: Good evening. I'd like to call this meeting of the Standing Committee on Private Bills and Private Members' Public Bills to order and welcome everyone in attendance.

My name is Brad Rutherford, the MLA for Leduc-Beaumont and the chair of the committee. I'd ask that members and those joining the committee at the table introduce themselves for the record, and then I will call on those joining in by videoconference. We will begin to my right.

Mr. Jeremy Nixon: MLA Jeremy Nixon.

Mr. Singh: Good evening. Peter Singh, MLA, Calgary-East.

Mr. Long: Martin Long, MLA, West Yellowhead.

Mr. Amery: Mickey Amery, MLA, Calgary-Cross.

Mr. Loewen: Todd Loewen, MLA, Central Peace-Notley.

Member Irwin: Janis Irwin, Edmonton-Highlands-Norwood.

Ms Sigurdson: Lori Sigurdson, Edmonton-Riverview.

Mr. Nielsen: Good evening, everyone. Chris Nielsen, MLA for Edmonton-Decore.

Mr. Koenig: Good evening. I'm Trafton Koenig with the Parliamentary Counsel office.

Ms Robert: Good evening. Nancy Robert, clerk of *Journals* and committees.

Mr. Huffman: Good evening. Warren Huffman, committee clerk.

The Chair: Thank you.

Going online, I see one. MLA Sweet, go ahead.

Ms Sweet: Good evening. Heather Sweet, MLA for Edmonton-Manning.

The Chair: Thank you.

If anybody else joins, I'll just ask them afterwards to introduce themselves.

One substitution to note: MLA Singh for MLA Frey.

A few housekeeping items to address before we turn to the business at hand. Please note that the microphones are operated by *Hansard* staff. Committee proceedings are live streamed on the Internet and broadcast on Assembly TV. The audio- and videostream and transcripts of the meeting can be accessed via the Legislative Assembly website.

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Moving on to point 2, approval of the agenda, are there any changes or additions to the draft agenda?

If not, can I get a motion to approve the agenda? MLA Long caught my eye. He has moved that the agenda for the March 15, 2022, meeting of the Standing Committee on Private Bills and Private Members' Public Bills be adopted as distributed. We will

start in the room. All those in favour, please say aye. Anyone in the room opposed, please say no. Moving online, all those in favour, please say aye. Thank you. That motion has carried.

Moving on to approval of the minutes, members, we have the minutes from our previous meeting to review. Are there any errors or omissions to note?

If not, would a member like to move for approval? Thank you. Mr. Nielsen has moved that the minutes of the November 1, 2021, meeting of the Standing Committee on Private Bills and Private Members' Public Bills be approved as distributed. All those in favour in the room, please say aye. Anyone in the room opposed, please say no. Moving online, all those in favour, please say aye. Thank you. That motion has carried.

Moving on to agenda item 4, private bills, in section (a) we're going to review the procedure for private bills. Members, part of the committee's mandate includes the review of private bills and petitions received for private bills. On Friday committee members received a memo from Parliamentary Counsel that reviews the mandate of the committee with respect to private bills. At this time I would invite Mr. Trafton Koenig of the office of Parliamentary Counsel to provide an overview of the memo and answer any questions members might have about the committee's procedure for private bills.

Sir, go ahead.

Mr. Koenig: All right. Thank you, Mr. Chair. I'm happy to provide the committee with a brief refresher on the private bills processes. The committee has been through this process a few times now already. I'll just start by noting that the rules that govern private bills are found at chapter 8 of the Standing Orders. The important thing to keep in mind with private bills is that although they only touch on a specific individual or group of individuals rather than the public at large, once a private bill is passed, it becomes law like any other law in Alberta, with the same force and effect.

In terms of this committee's role, if the committee is satisfied today that the requirements as set out in Standing Order 94 have been met with respect to each petition for a private bill, the chair will report that to the Assembly, and the bills can be introduced for first reading. The bills then will stand referred back to the committee, and the committee will hold a hearing and eventually make a recommendation on whether each bill should proceed, not proceed, or proceed with amendment. Depending on the recommendation of this committee and whether or not the Assembly concurs with that recommendation, each bill will then either progress through the normal consideration process, or it will be dropped from the Order Paper.

That is a very brief summary of the process, but I'm happy to answer any additional questions from committee members.

The Chair: Well, thank you for that overview.

Any questions at this point?

Seeing none, I guess we'll move on to section (b), review of the petitions received for private bills. As discussed in the memo from Parliamentary Counsel, two petitions for private bills were received by the deadline of March 9. At this time I would invite Mr. Koenig to provide a brief overview of these petitions.

Back to you.

Mr. Koenig: Why, thank you. This is probably the most talking I've done in a very long time at one of these committee meetings.

The Chair: It takes all the pressure off me.

Mr. Koenig: Yeah. As mentioned, the documents that are required to petition for a private bill are set out in Standing Order 94, and that includes two letters of petition, one addressed to the Lieutenant

Governor and one addressed to the Legislative Assembly; a statutory declaration confirming that the petitioner has provided public notice of the petition by advertisement in a daily newspaper in Alberta once a week for two consecutive weeks; a certified cheque in the amount of \$500 for bills that are 10 pages or fewer; the name of the Member of the Legislative Assembly who has agreed to sponsor the private bill; and, finally, two copies of the draft private bill that are in an appropriate format. The fees and documents have to be submitted to the Clerk of the Legislative Assembly by the relevant deadline, which in this case for this year was March 9, 2022.

As noted in the memo that was circulated on Friday, two petitions have been received this year by the deadline. Pr. 1, Calgary Young Men's Christian Association Amendment Act, 2022, is sponsored by Mr. Matt Jones. Shannon Doram, president and CEO of the Calgary Young Men's Christian Association, has submitted a petition for a private bill to amend the Calgary Young Men's Christian Association act.

The second one is Bill Pr. 2, Calgary Heritage Authority Amendment Act, 2022, sponsored by Mr. Jeremy Nixon. That was submitted by Janet McCready, board chair, and Josh Traptow, general manager of the Calgary Heritage Authority, who submitted a petition for a private bill to amend the Calgary Heritage Authority Act.

A draft of both proposed bills has been provided on the committee's internal website, and it's my opinion that both petitioners have fulfilled the requirements set out in the standing orders. As noted in my memo, any member of the committee who wishes to look at the petition documents can do so. I have them here tonight, or you can contact the office of Parliamentary Counsel if you wish to have a look at them later.

At this point I am happy to answer any other questions about the petitions for bills Pr. 1 or Pr. 2.

The Chair: All right. I will turn it over to the committee. Any questions on these bills?

I will just take a moment to have MLA Rosin introduce herself for the record, please. We will try again shortly to have her introduce herself.

Any questions?

Okay. Hearing and seeing none, thank you for the briefing and the update.

As these petitions seem to be in compliance with standing orders 90 to 94, this will complete this aspect of the committee's review of the petitions unless members have any comments or concerns that they wish to raise. That's my pause to see if there are any. No.

Seeing and hearing none, in accordance with Standing Order 99(1) I will provide an oral report to the Assembly on Wednesday, if possible, on the committee's review of the petitions, following which bills Pr. 1 and Pr. 2 may be introduced by their sponsors Mr. Jones, Member for Calgary-South East, and Mr. Nixon, Member for Calgary-Klein.

Moving on to section (c) of the agenda, scheduling of hearings and deliberations, the final portion of this is to deal with scheduling a hearing regarding bills Pr. 1 and Pr. 2. The past practice of the committee is usually to . . . [An electronic device sounded] Sorry. I'll just pause there.

Whoever phoned in, are you able to introduce yourself?

Ms Rosin: Yes. Sorry. This is Miranda Rosin, MLA for Banff-Kananaskis. I was in on Teams before, but as I'm driving, I just called in on the phone line.

The Chair: Okay. I appreciate that. You have now introduced yourself for the record, so I guess we've gotten that done as well. Thank you, MLA Rosin.

Just on the point I was making, we need to follow sort of the past practice, which is to set a meeting for a public hearing about three weeks from today, which would take us approximately to April 25 at 8 a.m. That would be a time and date that we would be able to do this. It is important to set this date so that Parliamentary Counsel is able to inform the petitioners of the date so that they are prepared for it as well.

7:10

I will need a motion. If somebody would like to move that we set the date and time for that. MLA Amery has gotten my attention and has moved, I believe, that

the Standing Committee on Private Bills and Private Members' Public Bills meet to hear from the petitioners for bills Pr. 1 and Pr. 2 and hold deliberations on Monday, April 25, 2022, at 8 a.m.

All those in favour of the motion in the room, please say aye. Anybody in the room opposed, please say no. Then moving online, all those in favour of the motion online, please say aye. That was both.

That motion has carried.

Moving on to agenda item 5, review of Bill 202, Public Health (Transparency and Accountability) Amendment Act, 2022, the presentation will be by Mr. Todd Loewen, the MLA for Central Peace-Notley. Members, Bill 202, Public Health (Transparency and Accountability) Amendment Act, 2022, was referred to the committee on Tuesday, March 8, 2022. In accordance with Standing Order 74.11 the committee's report to the Assembly is due on March 22.

On that note, I would like to invite Mr. Todd Loewen, the MLA for Central Peace-Notley, to provide a five-minute presentation on the bill, and then I will open up the floor to questions from committee members. I will now turn it over to Mr. Loewen. The floor is yours.

Mr. Loewen: Okay. Thank you very much, Chair, and thanks, committee, for meeting with me here tonight on Bill 202, Public Health (Transparency and Accountability) Amendment Act, 2022. This bill will democratize the Public Health Act by enhancing transparency and accountability. This bill does two main things. It ensures public health orders are tabled in the Legislature and gives members the ability to debate, amend, enhance, or revoke the order. In the case of the extension of a state of public health emergency, it needs to be brought forward and voted on in the Legislature.

So why the name? This bill will enhance both transparency and accountability. This bill will enhance transparency because tabling the orders in the House will help reduce misinformation and confusion around the orders and enhance clarity for members of the Assembly, who spend their days engaged with their community. This bill will enhance accountability because this will allow MLAs the opportunity to speak on behalf of their constituents and to do the very important job of bringing their constituents' interests and perspectives into the Assembly.

I know we've all had constituents e-mailing our offices about what they consider some of these health orders are, and we know that some constituents have brought forward e-mails to our offices to make very valid concerns. There are concerns about mental health, concerns about economic damage, concerns about rising opioid addictions, concerns about children and youth development, or even just clerical inconsistencies in the rules. The Premier himself has acknowledged his government made a mistake in the

beginning by only allowing big box stores to stay open. Imagine if we could have addressed that self-admitted error more quickly.

The biggest lesson we learned during COVID is just how multifaceted the impacts of these restrictions became. There was not one clear expert on everything, so this bill will allow MLAs, from both sides of the aisle, to better represent their constituents. This allows for more collaboration and input from the opposition side. The opposition did not have an opportunity to speak on any of these orders in a legislative setting, and while the Official Opposition might have argued for enhancements of orders that other members here may disagree with, discourse like that is far more productive in the Chamber than it is on Twitter. This bill is about giving the opportunity for sober second thought on health orders and on extending a state of public health emergency.

So what inspired the bill? I asked people that I met for months what to do with my private member's bill. Their most common concern was the health orders, and one of the most common comments was: "How does this work? Can we change this?" They wanted to fix the Public Health Act.

We also wanted something that considered the democratic protections built into the Emergencies Act. We've all seen from Ottawa that they had seven days to debate and pass the Emergencies Act. That's not the case in Alberta. The work of the Select Special Public Health Act Review Committee and quotes from Dr. Deena Hinshaw heavily influenced the direction of this bill.

In the final report to the public health review committee under number 1 it says:

That the Act [may] be amended in relation to orders issued under the Act that apply to the general public as follows.

Under (d) it says:

revise the Act's provisions as necessary to clarify that an order declaring a state of public health emergency made under section 52.1 cannot lapse and subsequently be reinstated without the approval of the Legislative Assembly, provided that the Legislative Assembly is able to sit.

This is exactly what this bill does on page 3.

Under (e) it says:

revise the Act's provisions to ensure that all ministerial orders issued under section 52.1 cannot be renewed without the approval of the Legislative Assembly, provided that the Legislative Assembly is able to sit.

And this bill will allow the opportunity to move a motion to disallow the renewal of an order where it makes sense.

We were also inspired by recommendations 2 and 3. Two says:

that the Government of Alberta explore options within the Public Health Act to include provisions that would ensure the Government of Alberta provides briefings to the Official Opposition and any other Member of the Legislative Assembly.

The tabling of orders and the ability for members to ask for discussion on the orders are reflected in this bill. There's nothing in this bill to compel the Legislature to sit, and we can't compel briefings, but we can encourage, and these tablings will do that, will have that encouragement.

Under 3:

that the Committee expresses its support for the inclusion of sunset clauses under section 52.1 of the Public Health Act and recommends to the Government of Alberta that it review all existing sunset clauses on orders made under section 52.1.

Sunset clauses can be made by motion in this process described in the bill.

I just want to close with a quote from Dr. Hinshaw. She says:

Again, recognizing that there need to be checks and balances, there need to be assurances that there's not going to be use of this act in an inappropriate way, I would advocate that tools not be

taken out but, rather, if additional checks and balances are needed, that those be put in.

This brings the checks and balances to this bill . . . [Mr. Loewen's speaking time expired]

Thank you.

The Chair: Sorry, MLA Loewen. I just want to double-check. Any sort of final thought you want to wrap up, or did you time that nicely?

Mr. Loewen: That was very tight. Yeah. Maybe I'll just say that this bill brings in those checks and balances that Dr. Hinshaw had mentioned in that quote.

I'll leave the comments as is now. Thanks.

The Chair: Okay. Thank you for that five-minute presentation.

I will now open it up to the floor for 20 minutes of questions, and we can start with the NDP. Please go ahead.

Ms Sigurdson: Thank you very much, Mr. Chair. One of the questions I have is just – I think the bill says that two members could trigger a debate. That's quite a low number. I'm just wondering if you see any concerns with that. Will that create quite a bit of chaos when so few people can, you know, create the threshold to have this debated?

Mr. Loewen: Okay. The reason I chose two was the fact it didn't – *Robert's Rules of Order*: you have a mover and seconder to bring forward anything to be discussed in a meeting. That's why I used the number two. Obviously, you know, if there was just one person that was interested in this discussion, then I would say: no, that probably isn't appropriate. Again, just under regular rules of order I thought that two was the proper number.

The Chair: Thank you.

Go ahead with a follow-up if you have one.

Ms Sigurdson: Yeah. There are many public health orders that were made, of course, during this pandemic. I'm looking back to how quickly measures came in. Could you see that, like, every measure being debated might create even more, you know, upset or chaos? Orders come in. How can we expediently respond to them? I don't know if you've thought that through.

Mr. Loewen: Yeah. No, I appreciate the comment, for sure. There's nothing in this bill, of course, that restricts the ability for the chief medical officer of health or cabinet to make the orders. I just want to make sure that that's clear. There's nothing to restrict that activity. What it does do is provide that opportunity to be brought before the House. Now, of course, nothing would be debated unless it was asked to be debated by any two members. I think that when it comes to these health orders and the state of emergency, those are very important things. That's what we do in the Legislature, very important activities. Things that are that important to the public, that have created the desire to have the health order or the state of emergency to be called: I think those are important things. Again, that's what we do in the Legislature, debate and discuss and vote on very important things. I think it's reasonable to do that.

I am not sure that every one would have been brought forward to debate. I think there are many that probably wouldn't have been. But, obviously, the ones that maybe were more controversial for some people in some constituencies: I think that they may have been brought forward.

The Chair: All right. We will go over to MLA Nixon for a question and a follow-up.

Mr. Jeremy Nixon: Thank you, Mr. Chair. Kind of leading off of what MLA Sigurdson was, I think, going after there, you know, this act, of course, is more than just COVID. There could be any other health act or issues that could happen in our society, and I think the importance for the government to be able to respond quickly: that's the way that it's set up right now, with the CMO coming and meeting with cabinet, making recommendations, and then being able to move quickly. So just to clarify, then, that what we're proposing here would not restrict their ability if the Legislature is not sitting to be able to act now and that what we're doing is revisiting it next time we're in session, to be able to debate what took place.

7:20

Mr. Loewen: Yes. Exactly. There's absolutely nothing in this bill that affects that initial process to bring the health orders into effect or the state of emergency in effect. Nothing in this bill affects that at all. It is just that opportunity to discuss it in the Legislature when it sits next. There's nothing in the bill to compel the Legislature to sit, so if the Legislature wasn't sitting for a week or a month, then when it did sit next is when they would be tabled. If we're sitting in the Legislature, then it would be tabled within one day.

Mr. Jeremy Nixon: Okay. So then we would have a debate, and that would change something that likely or maybe could have happened months before. Is that kind of the idea, or that we would make sure that it never happens again if we disagreed with it?

Mr. Loewen: Yeah. It would only affect that order itself, and it would only affect that order moving forward. Again, it's kind of that sober second thought, where you kind of get a chance to review what's been done. I guess the longer period of time that it's actually been in place, you might have more information on how you would feel about that order. At that point, again, you could actually move to amend it, to enhance it, or to revoke it. If the MLAs didn't want to review it at all, then it wouldn't even come before the Legislature.

The Chair: Thank you.

You did sneak in a follow-up, so I'll go over to Mr. Nielsen.

Mr. Nielsen: Thanks, Mr. Chair. Thanks for coming to answer some questions here. I appreciate that. You know, let's start asking the hard questions here. As we know, at the beginning of the pandemic with how COVID was spreading, the different variants and things like that, shall we say that there was a surplus of information out there regarding treatment, false treatment, prevention methods, and things like that. How can we be assured, with the present drafting of the bill, that evidence of that nature would not be used inside the Assembly to revoke or amend a necessary public health order?

Mr. Loewen: I think we have the opportunity for members to represent their constituents. Obviously, there's a wide variety of opinions on all sorts of things within the public health orders that came about. I think that MLAs are there. I think we find that we do this important work all the time. I guess if you're concerned about kind of the democratic process, that maybe we would somehow get this drastically wrong, then maybe we need to be concerned about all the things we do within the Legislature that we could get drastically wrong and bringing in, you know, debate that isn't necessary or isn't warranted or maybe isn't even correct. Again, this is just part of the process of our jobs that we have to do with a multitude of things, including other health issues outside of these orders. Again, this is that opportunity for that sober second thought,

to look back and look at what has happened, what that order has done, and then look to the future and see if it's necessary or if it needs to be enhanced or revoked.

The Chair: A follow-up? Go ahead.

Mr. Nielsen: Yeah. Thanks, Mr. Chair. I noted that in your opening statements you were talking about checks and balances. If members do want health orders to be debated in the House and – you know, I guess I'll just say it – maybe a member is using misinformation, what kind of check and balance is in place with what you're proposing to ensure that measures that we're discussing or that are being brought in are based on science, are based on the data?

Mr. Loewen: It would be just as similar to every other debate that we have in the Legislature on any motion or on any bill. Members can bring in whatever information they want on anything, but of course that's our job, to look through these things and make good decisions and make decisions based on science and proper information. Again, we do this all the time. This isn't a unique situation that I'm talking about here. This is a situation that maybe is more controversial because of the pandemic that we're just coming through, but again we do this every day in the Legislature. Overall, I think we have to agree that this democratic process is the best process that's available right now to take care of issues and, again, a wide variety of issues.

The Chair: Thank you.

We'll go to MLA Long for a question and a follow-up.

Mr. Long: Thank you. MLA Loewen, I actually saw your post online asking your constituents for feedback. I appreciate that you do have such a broad engagement with your constituents and have relied on their feedback for such an important bill. Obviously, we don't get a lot of opportunities to bring bills forward as private members, so as I say, I just appreciate how you went about that.

Now, with that, I was curious, you know, once you made the decision to move ahead with this bill, if you had the opportunity to look at other jurisdictions to see if they have a similar process like you're bringing forward here.

Mr. Loewen: I think the best example is the Emergencies Act with the federal government. Again, we've seen what took place there when it was invoked. The Parliament had seven days within which to bring it before Parliament and have it debated and voted on. So that was a bit of an indicator right there of the process. Maybe the timelines are slightly different, but I think it's, again, an opportunity – with the Emergencies Act it's with the MPs, of course, in Parliament – to be able to discuss it and debate it and vote on it and pass it. We've never had that process here with the emergency health orders and with any of the health orders. I think that was a good process. We might not agree with the result of any of these processes, but that is the best way to go, as far as democracy, to have this brought forward and looked at and debated and discussed.

Mr. Long: Thank you. I was hoping we wouldn't ever even talk about the Emergencies Act again, but thanks for making me twitch tonight, Mr. Loewen. No, I appreciate that.

The other thing, just to clarify: did I hear correctly that if the Legislature isn't sitting, it's after the Legislature returns and within two days? Was that correct? But if it's sitting, is it within one day or two days?

Mr. Loewen: One day if we're sitting, and if, you know, it's not sitting when a health order is made, then within two days of when

it reconvenes. Naturally, not a compelling to reconvene at any time but whenever we would normally sit again, within two days of then.

Mr. Long: Okay. Thank you.

The Chair: Thank you.

We'll go to Mr. Amery, please.

Mr. Amery: Thank you very much, Chair. Good evening, MLA Loewen. Thank you for presenting this bill to us today. I do have a question. Maybe it would help to put all of this into context if I gave the opportunity to give an example of one public health order that we had in the past that this bill might have worked well for. I'll give you the follow-up right now. Just going back to what my colleague just mentioned to you, the Public Health Act debate would take place within two days of the date that the Legislature resumes sitting. Do you have any concerns about a public health order that needs to be declared while the Legislature is not sitting in events that require immediate action?

Mr. Loewen: Okay. The first question on example: I think one of the examples, right off the start, was where it was determined that there would be essential and nonessential businesses. I think that was one that, you know, caused a lot of alarm and caused a lot of, I think, angst and probably a lot of loss of business for small businesses. That was one that I think if we had had an opportunity to bring that before the Legislature, then maybe we could have had an opportunity to debate that and discuss it and then be able to have that open and honest discussion and maybe could have rectified that situation earlier. Of course, the Premier said afterwards that he regretted that decision from that time. Again, we all make mistakes, and we all have to learn from them, but if we can identify our mistakes – the sooner the better – then I think we have an opportunity to fix that.

Getting back to the immediate nature, do you want to just cover that one again, the follow-up question?

Mr. Amery: Just simply put, if the debate takes place two days after our Legislature resumes sitting, I'm wondering about how this would deal with situations where a public health order needed to be declared on an urgent basis while the Legislature was not sitting.

7:30

Mr. Loewen: Okay. Yeah. No. And that's fair enough. Yes. There is nothing in this bill that interrupts the process that exists now. So the process that we have right now as far as the cabinet or chief medical officer of health asking for an emergency order or a health order: that process would be exactly the same as what it is now. So, you know, in an urgent need for something to happen it can still happen in the same fast process that we have right now. That process will remain the same, and it'll just be a chance to review it at the next opportunity within the Legislature.

Mr. Amery: Can I just – just a very, very quick . . .

The Chair: Very quickly.

Mr. Amery: All right. So this would not impact the chief medical officer's ability to declare a public health order; it would only give the Legislature an opportunity to discuss it . . .

Mr. Loewen: Yup.

Mr. Amery: . . . two days after.

Mr. Loewen: Yup. Exactly.

Mr. Amery: Okay. I'm good with that. Thank you.

Mr. Loewen: Yup.

The Chair: Mr. Nielsen.

Mr. Nielsen: Thanks, Mr. Chair. I guess I'll just keep going with the really tough ones here for you. You know, I don't think it's any secret. I think there were some decisions that have been made along the way that were definitely politically motivated. Do you see any concerns with what you have drafted being used, I guess, from a political perspective rather than science and data?

Mr. Loewen: Okay. I think everything we do in the Legislature is political. We represent political parties. We go into the Legislature and make decisions based on some political views or some, you know – whatever situation that we have. But as far as the political motivation, I think this gives, actually, a greater opportunity for democracy and a greater opportunity for input from a wider group of people.

If we look at the decisions that have been made so far in this pandemic, we've had the chief medical officer of health making recommendations to a cabinet committee, which is all just one political party. The opposition has no seat at that table. This brings it into the full forum where all the political parties have an opportunity to debate and discuss and make recommendations. So I actually think this is the opposite. This actually makes it so that people from all political parties have the opportunity to debate this openly, transparently in the Legislature, and, again, that is what we do in the Legislature, bring forward our political views, the views of our constituents into all the debates that happen in the Legislature.

The Chair: Thank you.

Just before your follow-up, I'd just ask everybody online to mute if you could, please.

Mr. Nielsen.

Mr. Nielsen: Thanks, Chair. The reason I was asking that is because, as you know, I tend to dig into the legislation. What does it say? What doesn't it say? What are we saying about it? So one of the things that caused me concern right off the hop is on page 1 of your bill, section 29, number 2(a). Right now 2.2 currently reads, "a medical officer of health or the Chief Medical Officer may in writing exempt a person," and so on and so forth, and you're proposing to change that to "may issue, in the form prescribed by the minister." So I guess that causes me some pause because we're leaving it potentially up to the minister, who could make a political decision rather than something that's based in science and in data.

Mr. Loewen: Okay. I consider that more of a housekeeping issue because right now it's "may in writing exempt." That restricts the opportunity for things to happen and it can only happen in writing, but this allows it to be prescribed in a form prescribed by the minister, so maybe by e-mail or by any other form of transmission. Again, I looked at this more as housekeeping, not as an opportunity for the minister to have more say in the process but just a say in how the data is transferred.

The Chair: Thank you.

As we're coming into the last two minutes and 15 seconds, Mr. Nixon is up.

Mr. Jeremy Nixon: Excellent. Thank you, Mr. Chair. I guess my question is kind of still building off what Mr. Nielsen was getting at, I think. My concern is about decisions being made politically

instead of based on evidence and, I guess, knowing full well that the Emergency Management Committee would sit for days on end sometimes going over information, and things changed very quickly throughout, as you know as well. I guess the question I have is: how do we ensure that the information is made available to members so that they can make good, informed decisions, especially considering the length of time, the amount of time that cabinet did spend with the CMO poring over the information that was in front of them?

Mr. Loewen: Yes. I agree. I understand the concern about having that information, and I think that is important, to make sure that everybody has that information. But, again, when we go into the Legislature every single day, we have very important, critical decisions to make, and we make those decisions with the information that we have, that we dig out, that we research ourselves and have our staff research. Obviously, you know, ministers bring this information to the Legislature, too. Again, I think this is a very similar process as any bill or any motion that we're debating in the House. As Members of the Legislative Assembly, I mean, that's our responsibility, to make sure that we have the information and make good decisions for the people of Alberta. Again, this is no different than anything else that we do on a daily basis in the Legislature.

The Chair: For a follow-up.

Mr. Jeremy Nixon: Thanks. I guess, then, kind of going down the vein of things changing quickly, is there provision in here at least for us to be able to revisit decisions? So if we do have a discussion and make a decision as an Assembly and as things change, are we able to come back and revisit? Or can the CMO, if the session isn't sitting, make that change even after we've had that debate in the Legislature because it's needed at that time?

Mr. Loewen: Yeah. Obviously, if there was a need to have another order made, then that order could be made. Again, there's nothing in the bill that interferes with that opportunity for the chief medical officer of health or cabinet to make those decisions and bring forward those orders.

The Chair: Okay. Thank you, Mr. Loewen. You're welcome to stay and hear the rest of the presentation if you like. I appreciate your presentation and you taking questions from the committee.

We will now move to a technical briefing by the Ministry of Health. We have department officials attending from the ministry to present here today. I want to thank you for being here as you make your way to the table. I will just talk a little bit slower as you get yourselves set up and pause just for a moment. I'm used to two years of virtual, where this is just instant.

Joining us at the table – and I'll ask you to introduce yourselves – we have Ms Trish Merrithew-Mercredi, assistant deputy minister, public health and compliance division; and Dr. Karen Philp, executive director, health protection branch, public health and compliance division. Thank you for joining us. You have five minutes as well to make a presentation to the committee.

Ms Merrithew-Mercredi: Thank you, Chair, and thank you for the opportunity to attend tonight to comment on Bill 202. As you've just said, I'm Trish Merrithew-Mercredi. I am the assistant deputy minister of public health and compliance for Alberta. Joining me tonight is one of my executive directors, Dr. Karen Philp, who has been in the department for roughly a year.

We understand, Alberta Health understands, that Bill 202 proposes amendments to some of the provisions of the Public

Health Act relating to transparency and accountability. Alberta's Public Health Act provides statutory authority and accountability mechanisms to protect Albertans from illness and injury and in some cases death. Declaring a state of public health emergency is one of four authorities in the act.

On March 17, 2020, the government of Alberta declared, for the first time in over a hundred years, a state of public health emergency in response to the COVID-19 pandemic, under section 52.1 of the act. It's extremely rare, as a result, for the government to declare a state of public health emergency under the act. It's a very significant step. Government's declaration of a state of public health emergency increased awareness in Alberta of existing emergency authorities available in the act. To address questions about emergency authorities, eight government and four opposition MLAs were appointed to a Select Special Public Health Act Review Committee to provide a report with recommendations on the act to the Legislature by October 31, 2020. I believe they actually reported on October 12.

The select special committee report formed the basis for many of the recommendations and many of the provisions in Bill 66 that came into effect on December 15, 2021. Amendments to the act added provisions to address accountability and transparency by requiring the minister to post the order of exemption online as soon as reasonably possible after the making of the order of exemption. One amendment requires the minister to ensure that any code, standard, guideline, schedule, or body of rules brought into force via an order of exemption is readily available to the public.

7:40

Bill 66 amendments codified the practice used during the COVID-19 response. All CMOH orders were and continue to be posted on the government website. Bill 202 proposes giving MLAs additional power to revoke or amend terms or conditions of exemptions or orders made by the chief medical officer of health, by medical officers of health, the Lieutenant Governor in Council, and Alberta Health Services relating to a public health emergency.

In summary, Bill 202 proposes to make actions of the CMOH and the local MOHs subject to review by the Legislative Assembly with power provided to revoke or amend the orders and, secondly, to require a return to the Legislature for MLAs to review an extension to a public health emergency and to pass a resolution.

The current act already provides conditions for the expiry of a declared state of public health emergency under section 52.8, that describes that a state of public health emergency order will lapse unless continued by a resolution of the Legislative Assembly. Bill 202's proposed amendments could reduce flexibility and speed to deal with a public health emergency. The nature of public health emergencies requires government's rapid response. The proposals suggested in this bill could limit the ability of government to respond effectively in dealing with a public health emergency.

The bill appears to go over and beyond increasing transparency and accountability by giving the Legislative Assembly the power to revoke or amend public health orders or exemptions. In responding to a public health emergency, there is a need for clarity, consistency, and urgency. Some of the provisions in Bill 202 could inhibit the ability to respond in a timely and effective way to protect the health and the lives of Albertans. Throughout the pandemic Alberta Health was committed to providing information regularly and transparently to Albertans about COVID-19 and the government's response.

Thank you. We would be pleased to take any questions.

The Chair: Thank you. I appreciate the presentation, almost exactly on time, which is excellent to have.

Any questions? I don't have anybody on the list currently. Mr. Nielsen, go ahead.

Mr. Nielsen: Thanks, Chair. Thank you for coming to answer questions and for your presentation. Maybe I'll get to an elephant in the room, but I'll first go through another direction. So let me ask directly. Do you believe that public health experts and data that's based in science – did it have enough influence over decisions that were made throughout this pandemic around the health measures that were put in place?

Ms Merrithew-Mercredi: MLA Nielsen, I think you're asking for my opinion, and that's not what I'm here to provide you with. I can't in all conscience provide my own opinions.

Mr. Nielsen: Okay. So in order for, I think, people to be able to – sorry. This would be my follow-up, Mr. Chair.

The Chair: I'm counting.

Mr. Nielsen: Then would it not be prudent to simply release data, recommendations so that everybody, including Albertans, can see for themselves how decisions are being made? Whether they agree or not could be another argument for another day. I know certainly the opposition has called for that information for the past two years. Would that help in people making decisions?

Ms Merrithew-Mercredi: I think I would need to say that the question, in my mind, would be: would Albertans, the average Albertan, be able to understand and use the data and the information correctly or as it's meant to be understood?

The Chair: Okay. Thank you.

We'll go to Mr. Nixon for a question.

Mr. Jeremy Nixon: Excellent. Thank you for being with us tonight. I guess my question is about kind of revisiting decisions that were made. If the CMO puts a health order in place and then we debate it in the Legislature and decide that we want to remove that but then a couple of weeks later, months later the CMO decides, "Hey, we need to go and do this for the benefit of the public," because of the information available to him or her, would she still be able to do that with Bill 202 in place?

Ms Merrithew-Mercredi: MLA Nixon, I believe it would be possible, technically possible. The issue would be, in my mind, the time involved and what might actually transpire during that period of time. Because we're dealing with public health emergencies and situations where people's lives are often at risk, the CMOH needs the flexibility to act quickly and swiftly, and if she or he, depending on the case, were required to go back to the Legislature each time they either wanted to issue a new order or to extend an order, I would suggest that that might in fact imperil people's lives or the health of Albertans as a whole.

Mr. Jeremy Nixon: Okay. Thank you.

The Chair: Any follow-up?

Mr. Jeremy Nixon: That should be good.

The Chair: Okay. Any other questions?

Mr. Jeremy Nixon: I can ask one more. I'm just interested if you know or if you've done any sort of jurisdictional scan to understand if there are amendments like this in other Legislatures across the country.

Ms Merrithew-Mercredi: I led the original exercise when we developed the amendments to the Public Health Act, and we did conduct a jurisdictional scan of all the PTs in Canada. We also looked, in fact, out of Canada. There is no other province or territory that I'm aware of in Canada where the Legislature actually has the authority to amend or perhaps even revoke a public health order act of a CMOH that has not already lapsed for other reasons.

Mr. Jeremy Nixon: Thank you.

The Chair: Any follow-up? No?

Any other questions? I will pause. Oh, MLA Long. Go ahead.

Mr. Long: I'm not sure if you can answer this. Is there a role at all for, like, the legislative body in this circumstance? Is that a fair framing of it?

Ms Merrithew-Mercredi: I think it's a fair framing. I don't believe, though, that I can respond to that. I can't speak to the role of the Legislature, what it might or might not be. I will say, however, that I think it's important that we, you know, look at what a public health emergency really is versus perhaps another kind of emergency and the need to not bind the CMOH or local MOHs in their ability to respond in a way that will protect the health and well-being of Albertans or perhaps even their own lives.

Mr. Long: Okay. Can I . . .

The Chair: Yeah. For a follow-up. Go ahead.

Mr. Long: The other thing. I just want to touch on your response earlier. Like, when we heard the explanation from MLA Loewen about it wouldn't – like, this bill doesn't stop an order from taking place, but it would be a review at the next possible time if the Legislature wasn't sitting or, if it was sitting, within a couple of sitting days. With that explanation, does it stop the chief medical officer from making prudent, rational, expedient decisions?

Ms Merrithew-Mercredi: I don't think it would prevent the chief medical officer or a local MOH from making a prudent decision, but it might overturn a prudent decision for reasons that might not actually be based on science or an understanding of the medical conditions or situations that are involved.

The Chair: Thank you.

I see the wheels turning, but I'll go to Mr. Nielsen for a question and back to you if you want.

Mr. Nielsen: Thanks, Mr. Chair. I guess, I mean, the whole purpose of this bill is maybe second-guessing some decisions around things that were being made, political interference, things like that. Is there any merit maybe to – should the Legislature look at making the chief medical officer of health an independent office of the Legislature so that, you know, we can freely see decisions being made based on science, based on the data, and free from political interference?

7:50

Ms Merrithew-Mercredi: MLA Nielsen, I can't comment on, you know, making the CMOH an independent officer of the Legislature, but I can tell you that that was an option that was put forward during the original hearings about a year ago, when we were looking at the Public Health Act, and it was not included in the final report.

Mr. Nielsen: No follow-up.

The Chair: No follow-up.

MLA Long, did you have a question?

Mr. Long: I think that . . .

The Chair: It's okay if you don't.

Mr. Long: No. I think I'm good.

The Chair: You're good? Okay.

Mr. Long: Thank you for coming in and answering questions tonight. I appreciate it.

Ms Merrithew-Mercredi: Thank you.

The Chair: All right. I thought you did.

Any other questions for the department?

Okay. Hearing none – I'll give a bit of an extra pause for those online; I'm not hearing any – thank you for coming today and presenting and answering questions. It is much appreciated.

We will now move on to the decision on the review of Bill 202. Members, the committee must now decide how to conduct its review of Bill 202. In accordance with our approved process the committee may choose to invite additional feedback from up to six stakeholders, three from each caucus. Alternatively, the committee may choose to expedite this review and proceed to deliberations. Does anyone have any thoughts on this process?

Hearing no – I don't want to say "no thoughts" because I imagine there are some, but I am not hearing any comments, so I guess we can move forward directly into deliberations. Does anybody have any comments on deliberations or potentially a motion?

Mr. Nielsen: Sorry, Mr. Chair. I guess everybody is just kind of trying to process some of the information that we've heard this evening. I have to admit I have concerns with the bill. I think there are aspects of it that – it gives me pause, I guess, when you're looking at potentially only two members. Theoretically, it may be even derailing potential health orders that are being issued. You know, one minute we're hearing things like: we need to be making local decisions for their areas, speaking up. I'm not necessarily opposed to that, speaking up for our constituents, but, for instance, we're currently debating a bill about taking away local jurisdiction for being able to make decisions, what they feel is best on the ground. Maybe I'll just throw that out. I'm hoping to hear some more feedback from others, maybe get some of the discussion going, but this does tend to give me a little bit of pause at the moment. But I really would like to hear some others' thoughts.

The Chair: Very fair. I appreciate you kicking it off.

Does anybody else have any thoughts or questions about how we should proceed?

Mr. Jeremy Nixon: I guess just a comment on stakeholders. I don't know if that's what we're discussing right now, too, whether or not we'll want to see . . .

The Chair: With the silence we've moved on from stakeholders. There are no stakeholders coming. We are now deliberating the bill. The option now is to proceed with making a recommendation to the Legislature that we proceed with it or not proceed with it. It's a pretty short motion. I could read the basic draft. It ends with one word change at the end depending on which way you want to make a motion. But that's what we're on to right now. Do you want to finish that? Mr. Amery is trying to flag me down as well.

Mr. Jeremy Nixon: No. Now that I know where we're at in the process . . .

The Chair: It's all right.

Mr. Jeremy Nixon: Very good vice-chair over here. I appreciate that. I think at this point I would like to see this bill actually debated in the Legislature. I think there are some good parts to it that I think merit further robust discussion. I think there are still questions that a lot of members still have in regard to how this will play out, but I'm happy enough to see this proceed, personally. I think that all members of the Assembly should have the opportunity to debate and discuss this in a more robust way. Those are my thoughts.

The Chair: Would you like to make a motion?

Mr. Jeremy Nixon: Well, if there's no other discussion.

The Chair: Mr. Amery, go ahead.

Mr. Amery: I would like to make a motion based on the motion that appears on the screen.

The Chair: Could you just read it into the record for us, please?

Mr. Amery: Yes. I'd like to make a motion that the Standing Committee on Private Bills and Private Members' Public Bills recommend that Bill 202, Public Health (Transparency and Accountability) Amendment Act, 2022, proceed.

The Chair: Thank you.

Any comments or questions around that motion? Okay. I just want to double-check online if there are any questions.

Hearing none . . . [interjection] MLA Rosin, you have rejoined. I appreciate that, but you're going to need to mute before we have a mistake.

Ms Rosin: Sorry about that. I lost reception. I have it again.

The Chair: Okay. Thank you. I'm glad you're on.

We will then move to the question on the motion as moved by MLA Amery. All those in favour in the room, please say aye. Anybody in the room opposed, please say no. Then moving online, all those in favour of the motion, please say aye. Online all those opposed to the motion, please say no. Thank you.

That motion has carried.

Okay. Members, the committee has concluded its deliberations on Bill 202 and now should consider directing research services to prepare a draft report, including the committee's recommendations. Would a member like to move a motion to direct research services to prepare the committee's draft report? We do have a draft motion that goes with this as well. MLA Long. I'll just wait a moment for a motion to get up on the screen.

It's frozen, so I'll just read it in. MLA Long has moved that the Standing Committee on Private Bills and Private Members' Public Bills (a) direct research services to prepare a draft report on the committee's review of Bill 202, Public Health (Transparency and Accountability) Amendment Act, 2022, which includes the committee's recommendations and (b) authorize the chair to approve the committee's final report to the Assembly on or before noon on Monday, March 21, 2022.

Just hang on one moment. Just so we're clear – I was just speaking with Mr. Huffman – it should be Tuesday, March 22, 2022. I apologize. I was just trying to make sure we were hitting the right day there. It will be Monday, March 21, 2022. We will get – your screen is still frozen?

Mr. Huffman: Yeah.

The Chair: MLA Long, by any chance was that the motion you were hoping to move?

Mr. Long: I wouldn't have stumbled over it so much, but that's pretty much the motion that I wanted to move.

The Chair: He got me back for that "wheels turning" comment I made.

Any questions or comments about the motion?

Okay. Hearing none, we'll move to the question. All those in favour of the motion in the room, please say aye. Anybody in the

room opposed, please say no. Then moving online, all those in favour, please say aye. That was both of you.

That motion has carried.

Thank you.

Moving on to other business, is there any other business to discuss?

Hearing none, the date of the next meeting will be at the call of the chair.

Can I get a motion to adjourn? Mr. Nielsen has moved that the meeting be adjourned. All those in favour, please say aye. Anyone opposed, please say no. We are adjourned.

Thank you.

[The committee adjourned at 7:59 p.m.]

