

STANDING COMMITTEE ON HUMAN SERVICES



NINTH REPORT

**Bill No. 40 – The Status of the Artist Amendment Act,
2006 / Projet de loi n° 40 – Loi de 2006 modifiant la Loi
sur le statut de l'artiste**

**3rd SESSION of the 25th LEGISLATURE
LEGISLATIVE ASSEMBLY OF SASKATCHEWAN**

Legislative Assembly of Saskatchewan
Standing Committee on Human Services



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April 26, 2007

To the Honourable Members of the Legislative Assembly of Saskatchewan

HONOURABLE MEMBERS:

The Standing Committee on Human Services has the honour to present its report on its deliberations on Bill No. 40 – The Status of the Artist Amendment Act, 2006 / Projet de loi n° 40 – Loi de 2006 modifiant la Loi sur le statut de l'artiste.




A handwritten signature in blue ink, reading "Judy Junor".

Judy Junor
Chair
Standing Committee on Human Services

STANDING COMMITTEE ON HUMAN SERVICES

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STAFF

Mr. Viktor Kaczkowski, Committee Clerk
Mr. Michel Carpentier, Research Officer
Ms. Sandra Gardner, Supervisor of Assembly Services
Ms. Traci Willis, Journals Clerk

ACKNOWLEDGEMENTS

The Standing Committee on Human Services expresses its sincere thanks for the assistance it received from various branches of the Legislative Assembly Service, which contributed to the business of the committee.

The committee extends its appreciation to Mr. Viktor Kaczkowski, who serves as the Clerk of the Committee. Members of the committee are grateful for the assistance of its Research Officer, Mr. Michel Carpentier, in the preparation of this report. The Committee also acknowledges Ms. Sandra Gardner, Supervisor of Assembly Services, and the other staff of the Office of the Clerk, who assisted in the logistical organization of the public hearings and regular committee meetings.

Special thanks are extended to the staff of both Hansard and Communication and Technology Services for their assistance during the public hearings. The committee also thanks Ms. Traci Willis and Ms. Joelle Perras of the Journals Branch for the formatting and production of this report, as well as other staff members of the Legislative Assembly Service who supported the work of the Committee.

The committee also wishes to extend its appreciation to all the individuals and groups who made oral presentations and submitted written briefs. The information presented and the opinions expressed were of valuable assistance in reviewing Bill No. 40 – The Status of the Artist Amendment Act, 2006 / Projet de loi n° 40 – Loi de 2006 modifiant la Loi sur le statut de l'artiste.

Table of Contents

	Page
1. INTRODUCTION.....	1
2. METHOD OF OPERATION.....	2
3. RECOMMENDATIONS.....	4
4. CONCLUSIONS	5

APPENDICES

Appendix 1: List of Witnesses Appearing before the Committee	i
Appendix 2: List of Documents Received by the Committee	iv

1. INTRODUCTION

Bill No. 40 – The Status of the Artist Amendment Act, 2006 / Projet de loi n° 40 – Loi de 2006 modifiant la Loi sur le statut de l'artiste (herein referred to as Bill No. 40) was referred to the Standing Committee on Human Services after first reading in order to examine the broad public policy area of status of the artist legislation. This report provides a brief examination of the public hearing process and the recommendations that the committee has agreed upon.

On December 18, 2006, the Minister of Culture, Youth and Recreation (CYR), the Honourable Glenn Hage, appeared before the Standing Committee on Human Services at which time he indicated that the purpose of the legislation was to improve the socio-economic status of artists by strengthening the ability of professional artists to enter into collective bargaining agreements. Additionally, he asked that the committee conduct public hearings and examine Bill No. 40 with the intention of making recommendations regarding how and by what methods professional artists could form artists' and producers' associations and enter into collective bargaining or scale agreements.

At this time, and in fact throughout the public hearing process, the committee had the opportunity to ask questions of the Minister, CYR department officials, and members of the Minister's Advisory Committee on Status of the Artist (MACSA), which tabled a report with the Minister in July 2006.

In addition, the committee was willing to accommodate the request of the Minister that answers to the following three questions be considered as part of its deliberations:

1. Under what circumstances and using what processes should artists be able to enter into collective bargaining? How should they select a representative association and what would be the scope of that representation?
2. How should current national collective agreements, bargained through voluntary collective bargaining processes, be handled in a provincial labour relations system?
3. How should disputes arising from collective bargaining between artists and engagers be adjudicated?

At this meeting, the committee also approved the selection of Mr. Michel Carpentier for the position of Committee Researcher for the duration of the committee's consideration and report on Bill No. 40.

2. METHOD OF OPERATION

On February 26, 27 and 28, 2007, the Standing Committee on Human Services met to receive testimony on the broad subject matter contained within Bill No. 40. The witnesses who testified before the committee expressed their appreciation for the opportunity to present their thoughts and concerns regarding the legislation. Many of the witnesses expressed the opinion that status of the artist issues have long been of great concern to them and that they were extremely pleased to see legislation that would give artists the right to enter into collective bargaining agreements, also known as scale agreements, with engagers.

Over the course of three days of hearings, one individual artist, one private citizen, and twenty-six representatives from thirteen organizations appeared before the committee. Of the thirteen organizations, nine were artists' representative organizations, one was an engagers' association, one was the federal tribunal charged with administering the federal *Status of the Artist Act*, one was a provincial labour organization, and one was a provincial non-profit coalition of arts organizations. A full list of witnesses is provided in Appendix 1 of this report.

In addition to the written submissions received from the witnesses that appeared before the committee, five additional written submissions were received. A list of all written submissions is provided in Appendix 2 of this report.

While the issue of labour relations for artists was the primary concern of the witnesses, other issues addressed were;

- concerns regarding the definitions of artists and engagers contained in the legislation;
- the need for the legislation to respect and address the duality between the self-employed and independent contractor status of artists;
- the need to make the legislation binding on the Government of Saskatchewan,
- concerns regarding the taxation of artists' incomes;
- issues regarding the Government of Saskatchewan's procurement policy;
- the need for access to arbitration services in first scale agreement negotiations; and
- the need for further funding of the arts.

The committee wishes to express its concern that they did not hear sufficient testimony from engagers' associations and individual engagers of artists' services. The committee then conducted further *in camera* meetings with additional engagers in order to garner more balanced testimony on this issue. The committee is firmly of the view that all of its members have learned a great deal about this very important public policy issue from those witnesses that testified. The committee would again like to thank those groups that did come forward to articulate their thoughts and concerns.

The full text of the committee's proceedings can be found on the committee's website available at:

http://www.legassembly.sk.ca/committees/HumanServices/human_services.htm

3. RECOMMENDATIONS

Despite the complexity of the issue and the diversity of opinions, the committee was unanimous in accepting the premise that the socio-economic status of artists in the province is in need of improvement. While guaranteeing collective bargaining rights for artists is the cornerstone of Bill No. 40, there were members of the committee who indicated that this was neither the only nor the most appropriate avenue to achieve this result. Nevertheless, the discussions surrounding the issue of collective bargaining illustrated that even the proponents of collective bargaining had difficulty in determining the best method of implementing this objective. Therefore, the committee wishes to make the following recommendations.

Recommendation 1: The committee recommends that Bill No. 40 be not further proceeded with, as it does not meet its purpose as currently drafted.

In regard to the Minister's questions relating to the implementation of a collective bargaining regime for artists, Government members of the committee brought forward several general principles by which future legislation may be guided. There was consensus on the following recommendations;

Recommendation 2: The committee recommends that national agreements should be grandfathered, but only to the extent that those who are already party to existing agreements (artists and engagers) continue to be bound by them. New work places that are not currently bound by a collective or scale agreement will have to be certified under whatever process is established for collective bargaining.

Recommendation 3: The committee recommends that the definition of engager clearly indicates government and contractors as engagers and that the definition of artist needs to include the word 'professional'.

Recommendation 4: The committee recommends that intellectual property rights remain with the artist unless a contract exists or specifically states otherwise.

Recommendation 5: The committee recommends that language in the Act must respect the potential mix of self-employed and employed artists – artists as employees. There must be no jeopardizing of the dual status of artists for tax purposes.

There was a consensus amongst the government committee members only on the final two general principles as presented by them:

1. Artists should be able to determine who represents them in collective bargaining, and when and with whom collective bargaining should be undertaken. It is recommended that the model of the federal *Status of the Artist Act* and the federal tribunal charged with administering the Act, the Canadian Artists and Producers Professional Relations Tribunal (CAPPRT), be followed by which artist associations use a process to determine how their members want to be

represented. Sectoral bargaining should be the model of choice rather than work place by work place negotiating.

2. Matters regarding the certification of representative artist associations for the purpose of collective bargaining should be handled by the Saskatchewan Labour Relations Board (SLRB).
 - i. The Act should provide for first agreement arbitration and mediation.
 - ii. Disputes should be handled through arbitration and mediation.
 - iii. The SLRB would require four (4) new members: two representing artists and two representing engagers.
 - iv. Consequential amendments should be made to facilitate those appointments.
 - v. The cost of arbitration and mediation should be borne by the artist association and the engager.

4. CONCLUSIONS

The committee would like to impart that while this set of public hearings did not result in a substantive and detailed examination of the testimony received or a comprehensive list of recommendations, committee members felt that the process has been both very informative and productive. Committee members recognized that this process was valuable and is one that can be replicated in the future. The committee believes that the process was a success in terms of what committee members gained in knowledge about the issues.

The committee would also like to stress that it is cognizant of the fact that the implementation of the new rules and procedures for committees conducting public hearings is an evolving process. The committee understands the importance of the public hearing process and hopes to see it used more in the future.

APPENDICES

APPENDIX 1: LIST OF WITNESSES APPEARING BEFORE THE COMMITTEE

Monday February 26, 2007

Canadian Artists and Producers Professional Relations Tribunal

John Moreau, Acting Chairperson and Chief Executive Officer
Diane Chartrand, Acting Executive Director and General Counsel

Saskatchewan Craft Council

Ken Wilkinson, Board Chair
Mark Stobbe, Executive Director

Saskatchewan Arts Alliance

Skip Kutz, President
Marnie Gladwell, Executive Director
Sheila Roberts, Researcher and Consultant
Guy Vanderhaeghe, Writer

Regina Symphony Orchestra Players Association

Lisa Simmermon, Member

Canadian Film and Television Production Association

John Barrack, National Executive Vice-President and General Counsel
Kevin DeWalt, Board Member and President of Minds Eye Entertainment
Paula Pettit, National Director, Industrial Relations

Saskatchewan Federation of Labour

Don Anderson, Executive Assistant

Tuesday February 27, 2007

Alliance of Canadian Cinema Television and Radio Artists (ACTRA), Canada & Saskatchewan Divisions

Brian Topp, National Representative
Alan Bratt, President, Saskatchewan Branch
Mike Burns, Branch Representative, Saskatchewan

Canadian Artists Representation / Le front des artistes canadiens (CARFAC)

Patrick Close, Executive Director

Hugh Wagner

Saskatchewan Publishers Group

Brenda Niskala, Co-Executive Director

Professional Photographers of Canada-Saskatchewan

Larry Raynard, Member
Darrel Kajati, Member, Canadian Association of Photographers and Illustrators Canada

Wednesday February 28, 2007

American Federation of Musicians of the United States and Canada

Paul Sharpe, Director of Freelance Services
Brian Dojack, Secretary-Treasurer, Local 446, Regina
Cameron McConnell, Vice-President, Local 552, Saskatoon

Brian Brass

Canadian Actors Equity Association

Susan Wallace, Executive Director
Marianne Woods, Councillor for Saskatchewan

Writers Union of Canada-Saskatchewan

Maggie Siggins, Member and Writer

In camera meetings

Wednesday, February 28, 2007

Saskatchewan Labour Relations Board

Melanie Baldwin, Board Registrar

Thursday, March 1, 2007

Alliance of Canadian Cinema Television and Radio Artists (ACTRA), Canada & Saskatchewan Divisions

Alan Bratt, President, Saskatchewan Branch
Mike Burns, Branch Representative, Saskatchewan

Canadian Film and Television Production Association

Kevin DeWalt, Board Member and President of Minds Eye Entertainment

Monday, March 12, 2007

The Globe Theatre

Ruth Smillie, Director

Organization of Saskatchewan Arts Councils

Nancy Martin, Executive Director
Marianne Woods, Performing Arts - Junior Concerts and Administrative Coordinator
Aaron Clarke, Visual & Media Arts Coordinator

MacKenzie Art Gallery

Kate Davis, Director

APPENDIX 2: LIST OF DOCUMENTS RECEIVED BY THE COMMITTEE

HUS 56/25 Department of Culture, Youth and Recreation: Minister Hagel's request regarding Bill No. 40 – The Status of the Artist Amendment Act, 2006 including a copy of the Final Report of the Minister's Advisory Committee on Status of the Artist.

HUS 57/25 Department of Culture, Youth and Recreation: PowerPoint Technical Briefing on Bill No. 40 – The Status of the Artist Amendment Act, 2006.

HUS 58/25 Charley Farrero: Written submission dated January 31, 2007.

HUS 59/25 Saskatchewan Cultural Exchange Society Inc.: Written submission dated February 6, 2007.

HUS 60/25 Saskatchewan Arts Board: Written submission entitled "Written Presentation to: Standing Committee on Human Services" dated February 26, 2007.

HUS 61/25 Canadian Artists and Producers Professional Relations Tribunal: Written submission from Mr. Moreau entitled "Brief submitted to the Standing Committee on Human Services of the Legislature of Saskatchewan" dated February, 2007.

HUS 62/25 Saskatchewan Craft Council: Written submission entitled "Saskatchewan Craft Council Brief Presented to the Standing Committee on Human Services" dated February 26, 2007.

HUS 63A/25 Saskatchewan Arts Alliance: Written submission entitled "Submission to the Standing Committee on Human Services Regarding Bill No. 40 Status of the Artist Amendment Act, 2006" dated February, 2007.

HUS 63B/25 Saskatchewan Arts Alliance: Written submission entitled "Table 4: Artists' average earnings by occupation and province, 2001".

HUS 64/25 Regina Symphony Orchestra Players Association: Written submission entitled "Response to Bill No. 40 – The Status of the Artist Amendment Act, 2006" dated February 26, 2007.

HUS 65/25 Canadian Film and Television Production Association: Written submission entitled "Submission by The Canadian Film and Television Production Association to The Standing Committee on Human Services Re: Bill No. 40, Status of the Artist" dated February 26, 2007.

HUS 66/25 Saskatchewan Federation of Labour: Written submission entitled "A Submission to the Standing Committee on Human Services on the Status of the Artist by the Saskatchewan Federation of Labour" dated February 26, 2007.

HUS 67/25 Alliance of Canadian Cinema Television and Radio Artists (ACTRA), National and Saskatchewan divisions: Written submission re: Status of the Artist dated February 20, 2007.

HUS 68A/25 Canadian Artists Representation / Le front des artistes canadiens (CARFAC): Written submission entitled "CARFAC Fee Schedule".

HUS 68B/25 Canadian Artists Representation / Le front des artistes canadiens (CARFAC): Written submission entitled “Saskatchewan Visual Arts Handbook, eighth edition”.

HUS 69/25 Hugh Wagner: Written submission entitled “Notes for a Presentation by Hugh Wagner to the Saskatchewan Legislature Standing Committee on Human Services”.

HUS 70/25 Saskatchewan Publishers Group: Written submission entitled “Speaking Notes” dated February 27, 2007.

HUS 71A/25 Professional Photographers of Canada (Saskatchewan) and the Canadian Association of Photographers and Illustrators in Communications: Written submission entitled “Bill No. 20 [sic] – The Status of the Artist Amendment Act, 2007 [sic] – A Brief Submitted by the PPOC (Saskatchewan) and CAPIC”.

HUS 71B/25 Professional Photographers of Canada (Saskatchewan) and the Canadian Association of Photographers and Illustrators in Communications: Written submission entitled “Photographic Procurement for the Saskatchewan Government”.

HUS 72/25 American Federation of Musicians of the United States and Canada: Written submission entitled “Submissions to the Standing Committee on Human Services Regarding The Status of the Artist Amendment Act 2006, (Bill 40)” dated February 28, 2007.

HUS 73/25 Brian Brass: Written submission Re: Bill No. 40, The Status of the Artist Amendment Act, 2006.

HUS 74/25 Canadian Actors’ Equity Association: Written submission entitled “Canadian Actors’ Equity Association’s submission to the Standing Committee on Human Services regarding The Status of the Artist Act, 2006, Bill 40” dated February 19, 2007.

HUS 75/25 The Writers Union of Canada – Saskatchewan Branch: Written submission entitled “The Writers’ Union of Canada’s submission to the Standing Committee on Human Services with respect to Bill No. 40 of 2006-07 An Act to amend the Status of the Artist Act, Saskatchewan” dated February, 2007.

HUS 76/25 Charley Farrero: Written submission dated March 1, 2007.

HUS 78/25 Saskatchewan Arts Alliance: Correspondence from the Saskatchewan Arts Alliance to the Acquisition Policy and Process Directorate re: Consultation on Draft Code of Conduct for Procurement dated March 5, 2007.

HUS 79/25 Regina Symphony Orchestra Players Association: Correspondence re: Bill No. 40 / Projet de Loi n° 40 – The Status of the Artist Amendment Act / Loi de 2006 modifiant la Loi sur le statut de l’artiste – dated March 4, 2007

HUS 80/25 SaskCulture Inc.: Written submission re: Bill No. 40 / Projet de Loi n° 40 – The Status of the Artist Amendment Act / Loi de 2006 modifiant la Loi sur le statut de l’artiste – dated March 2, 2007.

HUS 82/25 Organization of Saskatchewan Arts Councils: Information package about the organization.

HUS 83/25 Organization of Saskatchewan Arts Councils: Sampling of agreements between artists and engagers.

HUS 84/25 The Writers Union of Canada – Saskatchewan Branch: Written submission entitled “Towards a Fair Deal: Buttressing and Harmonizing Canadian Creators’ Rights”.

HUS 85/25 Saskatchewan Arts Alliance: Written submission dated March 26, 2007 re: Status of the Artist public hearings.